

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TIMOTHY JACKSON,
Plaintiff,

V.

Civil Action No. 4:21-cv-00033

LAURA WRIGHT, MILTON B. LEE,
MELISA DENIS, MARY DENNY,
DANIEL FEEHAN, A.K. MAGO,
CARLOS MUNGUÍA, AND G.
BRINT RYAN, each in their official
capacities as members of the board of
regents for the University of North
Texas System; RACHEL GAIN;
ELLEN BAKULINA; ANDREW
CHUNG; DIEGO CUBERO; STEVEN
FRIEDSON; REBECCA DOWD
GEOFFROY-SCHWINDEN;
BENJAMIN GRAF; FRANK
HEIDLBERGER; BERNARDO
ILLARI; JUSTIN LAVACEK; PETER
MONDELLI; MARGARET NOTLEY;
APRIL L. PRINCE; CATHY
RAGLAND; GILLIAN ROBERTSON;
HENDRIK SCHULZE; VIVEK
VIRANI; AND BRIAN F. WRIGHT,
Defendants.

BOARD DEFENDANTS' MOTION FOR SUMMARY JUDGMENT APPENDIX

UNT 1090-1115	Appx.001
UNT 5061	Appx.027
Bakulina deposition excerpts	Appx.028
Bakulina deposition exhibit 19	Appx.036
Brand deposition excerpts.....	Appx.038
Chung deposition excerpts.....	Appx.043
Cowley deposition excerpts	Appx.048
Gain deposition excerpts.....	Appx.057

Graf deposition excerpts	Appx.061
Heidlberger deposition excerpts	Appx.067
Heidlberger deposition exhibit 26.....	Appx.074
Heidlberger deposition exhibit 27.....	Appx.076
Jackson deposition excerpts.....	Appx.078
Slottow deposition excerpts	Appx.085
Slottow deposition exhibit 2	Appx.098
Walls deposition excerpts	Appx.102
Walls deposition exhibits.....	Appx.111
Ishiyama deposition excerpts.....	Appx.118
Tweet thread.....	Appx.123

Open Letter on Antiracist Actions Within SMT

Anyone may sign this document via the Google Forms link at the end of the letter text. In the first 10 days after publishing, this letter received more than 900 signatures. We are still accepting signatures, but since the rate of signing has lowered significantly we'll only update the letter once per week. Thank you for your support!

At the Plenary Session of the Society for Music Theory's 2019 meeting, Philip Ewell, Yayoi Uno Everett, Ellie Hisama, and Joseph Straus powerfully demonstrated how systemic racism, sexism, and ableism animate musical discourse. They spoke not only with candor and wisdom, but also with exceptional courage. The *Journal of Schenkerian Studies*, in Volume 12, has just published a number of vitriolic responses to a single aspect of one presentation—under the pretense of scholarly debate, no less—and the ensuing scandal has diverted our field's focus from the structural critiques made in the plenary. The journal's violation of academic standards of peer review, its singling out of Prof. Ewell while denying him a chance to respond, and [the language of many of its essays](#) constitute anti-Black racism. These actions provide further evidence of the structural force of white supremacy in our discipline. While this episode is the most recent, and perhaps the most illustrative, the treatment Prof. Ewell received from the *Journal of Schenkerian Studies* is only the latest instance of systemic racism that marginalized Society members have faced for many years.

We applaud the [recent statement](#) of the Executive Board of the Society for Music Theory. To aid the Executive Board in their aim to “determine further actions,” we the undersigned advocate for the following:

1. A public statement from the President, authorized by the Executive Board and in accordance with the Policy on Public Statements, that SMT acknowledges the following three points: (a) that American music theory is historically rooted in white supremacy, the racist idea that whites are superior to nonwhites, (b) that these white supremacist roots have resulted in racist policies that have benefitted whites and whiteness while disadvantaging nonwhites and nonwhiteness, and (c) that these racist policies have resulted in injustices suffered by BIPOC at all stages of their careers. Further, we call upon the President, with the authorization of the Executive Board, to apologize to all BIPOC who have suffered such injustices, without equivocation.
2. A demonstration of support by the Society for the graduate students of the University of North Texas Department of Music History, Theory, and Ethnomusicology in their [call for accountability](#). We recommend that this support take the form of a letter to UNT Press demanding a full and truthful account of recent editorial processes at the *Journal of Schenkerian Studies*. This account should include information pertaining to which

authors submitted works through the call for responses and which were invited to participate individually, a description of the peer review process, details of which members of the editorial board, advisory board, and journal staff viewed submissions before publication, and an explanation of how certain authors were able to separate their roles as academic advisors to the editorial staff from their roles as authors.

3. The establishment of an Ombudsperson position or committee that advocates on behalf of those disadvantaged by imbalances of power in cases of conflict and misconduct related to journal editing, publications, conferences, governance, and teaching, since SMT has a role to play in promoting its policies for all members in all professional situations.
4. A statement that calls upon Society members to resign from the editorial board of the *Journal of Schenkerian Studies*, as the journal's recent comportment is incompatible with the SMT Policy on Ethics.
5. An amendment to the SMT Policy on Harassment, as it pertains to publication, to apply to members' behavior in all their scholarly endeavors, not only in SMT publications, discussion groups, and interest group interactions.
6. A censure of the advisory board of the *Journal of Schenkerian Studies*, pursuant to relevant portions of the SMT Mission Statement, Policy on Ethics, and Policy on Harassment, as the Society's policies have no meaning if violations do not invite censure. In particular, the Policy on Harassment states that "cases of proven offenses" will result in "revocation of membership and honors."
7. That all members of the society, as individuals, confront the ways we ourselves have sustained systems of racism and sexism through our own scholarship and pedagogy. The adoption of the above points is not a substitute for this self-reflection. That self-reflection will be aided by recent studies and works on antiracism, such as those [Harvard has compiled](#) and those in the [Chronicle of Higher Education](#). Members affiliated with an institution of higher learning can likely contact staff members dedicated to antiracist training and pedagogy. [Project Spectrum's keynote address at the 2020 MTSNYS conference](#) also outlines important steps that individual theorists can take toward enacting change in our field.

It is only through acknowledgment and sustained, careful reflection that we can truly begin to address these issues as an academic community. As a starting point, each music theorist must ask themselves: What books and articles do I read? What scholars do I cite in my own research? What music do I analyze in my research and in my classes? What readings do I assign in my classes? What interest groups am I involved with? What committees do I serve on and what is the racial and gender makeup of those committees? What students do I mentor? In short, we all need to ask ourselves: What have I done as an individual to perpetuate existing white supremacist systems of power and inequity in our field? Probing these questions in our work individually is essential to our collective reckoning.

This document was collaboratively authored by eight music theorists who identify as white: Edward Klorman, Stephen Lett, Rachel Lumsden, Mitch Ohriner, Cora S. Palfy, Nathan Pell, Chris Segall, and Daniel Shanahan. As is too often the case, white racial activism relies on uncredited labor by BIPOC. This document has benefitted from criticism, editing, and authorship by Philip Ewell, Anna Gawboy, Jennifer Iverson, Vivian Luong, and Toru Momii. Its failings rest with the initial authors.

We also believe that there is broad support within the music theory community and beyond for the views expressed in this letter. If you would like to show your solidarity, please add your name by filling out the form found at the following link.

Complete the form here and your name will be added alphabetically on the next daily update.

<https://forms.gle/wvLpit67oZU9rDE39>

Signed,

Damien Abner, Riverside City College
Rosa Abrahams, Ursinus College
Ruward Absaroka, University of Salzburg
Giulia Accornero, Harvard University
Stefanie Acevedo, University of Dayton
Byron Adams, University of California, Riverside
George Adams, University of Chicago
Byron Adams, UC Riverside
Kyle Adams, Jacobs School of Music, Indiana University
Elisa Corona Aguilar, NYU Student
Aisha Ahmad-Post, Colorado Springs, CO
Brian Alegant, Oberlin College Conservatory
Makulamy Alexander-Hills, Columbia University
Khyam Allami, Doctoral Researcher, Royal Birmingham Conservatoire, Birmingham City University, UK
Michael Allemana, University of Chicago
Emily Ruth Allen, Florida State University
Esme Allen-Creighton, North York Suzuki School of Music
Penrose Allphin, University of Massachusetts, Amherst
Andrés R. Amado, University of Texas Rio Grande Valley

Matt Ambrosio, Lawrence University
Drake Andersen, Vassar College
Clovis de Andre, Faculdade Cantareira (São Paulo, Brazil)
Christopher Antila, RILM (Répertoire International de Littérature Musicale)
Spencer Arias, Michigan State University
Daniel Arthurs, University of Tulsa
Sean Atkinson, Texas Christian University
Robin Attas, Queen's University
Jacqueline Avila, University of Tennessee
William R. Ayers, University of Central Florida
Andrew Aziz, San Diego State University
Michael Baker, University of Kentucky
Ben Baker, Eastman School of Music
David John Baker, London, UK
Sara Bakker, Utah State University
Twila Bakker, Edmonton, Alberta
Ellen Bakulina, University of North Texas
Ellen Bakulina, University of North Texas
Lara Safinaz Balikci, McGill University
Doug Balliett, The Juilliard School
Brad Balliett, New York, NY
Marcos Balter, University of California, San Diego
Sam Baltimore, Retired
Lisa Barg, McGill University
Alyssa Barna, University of Minnesota
Jessica Barnett, SUNY Fredonia
Matthew Barnson, SUNY Stony Brook
Daniel Barolsky, Beloit College
Christopher Bartlette, Binghamton University
Samantha Bassler, New York University, Steinhardt Dept of Music and Performing Arts
Professions
Eliot Bates, The Graduate Center, CUNY
Inessa Bazayev, Louisiana State University
Melinda Beasi, Easthampton, MA
Richard Beaudoin, Dartmouth College
Jennifer Beavers, University of Texas at San Antonio
Rachel Becker, Boise State University
Adam Behan, University of Cambridge
Owen Belcher, University of Missouri Kansas City

Matthew Bell, Tallahassee, FL
Vincent Pérez Benítez, Penn State University
Lauren Bennati, University of Wisconsin-Milwaukee
Michael Bennett, Graduate student, Stony Brook University
William Bennett, Harvard University
Linda Berna, Chicago College of Performing Arts at Roosevelt University
Zachary Bernstein, Eastman School of Music, University of Rochester
Michael Berry, University of Washington
David Carson Berry, University of Cincinnati, College-Conservatory of Music
Nilanjana Bhattacharjya, Arizona State University
Nicole Biamonte, McGill University
Ian Biddle, Newcastle University, UK
Benjamin Bierman, John Jay College, CUNY
Stefanie Bilidas, University of Texas at Austin
Sebastian Bisciglia, University of Toronto
Wendelin Bitzan, Robert Schumann Hochschule Düsseldorf, Germany
Nicolas Bizub, University of Cincinnati College-Conservatory of Music
Andrew Blake, Eastman School of Music, University of Rochester
Damian Blättler, Rice University
Dan Blim, Denison University
Morgan Block, University of Arizona
Chandler Blount, Florida State University
Michael S. Boerner, Stony Brook University
Breighan Boeskool, Granger, IN
Claire Boge, Miami University (Oxford, Ohio)
Jacob Bohan, Charlotte, North Carolina
Christine Boone, University of North Carolina Asheville
David Borgo, UC San Diego
Jack Boss, University of Oregon
Mauro Botelho, Davidson College
Beau Bothwell, Kalamazoo College
Janet Bourne, University of California, Santa Barbara
Sara Bowden, Northwestern University
Lynette Bowring, Yale University
Douglas Boyce, George Washington University
Clifton Boyd, Yale University
Michael Boyd, Chatham University
Matthew Boyle, University of Alabama
Antares Boyle, Portland State University

Penny Brandt , University of Texas at Austin
Andre Bregegere, William Paterson University
Matt Brennan, University of Glasgow
Zachary Bresler, University of Agder, Kristiansand, Norway
David Bretherton, University of Southampton
Amelia Brey, The Juilliard School
Seth Brodsky, University of Chicago
Christopher Brody, University of Louisville
Per Broman, Bowling Green State University
Erin M. Brooks, State University of New York-Potsdam
Eliza Brown, DePauw University
Jenine Brown, Peabody Conservatory of the Johns Hopkins Univ.
Matthew Brown, Eastman School of Music
Andrea Brown, University of Maryland
Michael Bruschi, Yale University
Michael Buchler, Florida State University
James Buhler, University of Texas at Austin
Carl Burdick, University of Cincinnati
Samantha Burgess, Ohio State University
Geoffrey Burleson, Hunter College-CUNY
L. Poundie Burstein, CUNY
Patricia Burt, University of Delaware
Mark J. Butler, Northwestern University
David Byrne, University of Manitoba
Thomas Cabaniss, The Juilliard School, New York, NY
Stephen Cabell, Occidental College
Ian Calhoun, University of North Texas
Andrea Calilhanna, Western Sydney University, MARCS Institute for Brain, Behaviour and Development
Michael Callahan, Michigan State University
Clifton Callender, Florida State University
Melissa Camp, University of North Carolina, Chapel Hill
Lee Cannon-Brown, Harvard University
Ellon D Carpenter, Arizona State University, Emerita
Daphne GA Carr, NYU FAS Music
Carolyn Carrier, Philadelphia, PA
Rebecca Carroll, Rutgers University
James Carroll, Springfield, MA
Daniel Carsello, Temple University

Antonio Cascelli, Maynooth University
James P Cassaro , University of Pittsburgh
Zosha Di Castri, Columbia University
Devin Chaloux, New Hampshire
Samuel Chan, New York University
Aditya Chander, Yale University
Varun Chandrasekhar, The University of Minnesota
Dustin Chau, University of Chicago
Damian Cheek, University of Arkansas - Fort Smith
Timothy K. Chenette, Utah State University
William Cheng, Dartmouth College
Hon Ki Cheung, University of Minnesota
Adrian P. Childs, University of Georgia
Matt Chiu, Eastman School of Music
Hiroaki Cho, Brown University
Andrew Chung, University of North Texas
Amy Cimini, UC San Diego
Alice Clark, Loyola University New Orleans
Caryl Clark, University of Toronto
Timothy Clarkson , Sydney Conservatorium of Music, Sydney University
Seth Cluett, Columbia University
Jacob A. Cohen, Oberlin College
Sara Jo Cohen, University of Michigan Press
Christa Cole, Indiana University
Carla Colletti, Webster University
Adam Collins, University of Montana
Henri Colombat, McGill University
John Combs, Florida State University
Jade Conlee, Yale University
Corrina Connor , Victoria University of Wellington, New Zealand
Karen M. Cook, University of Hartford
Robert C. Cook, Louisville CO (University of Iowa, emeritus)
Margaret Cormier, McGill University
David Cortello, Catawba Valley Community College, Hickory, North Carolina
Evan Cortens, Mount Royal University
Nicole Cosme, Yale University
Alyssa Cottle, Harvard University
Benjamin Court, UCLA
Alexander Cowan, Harvard University

Georgia Cowart, Cleveland
Arnie Cox, Oberlin College & Conservatory
Daniel Cox, Yale
Maxe Crandall, Stanford University
Hannah N. Crider, Florida State University
Stephen A. Crist, Emory University
Luis Cruz, Rutgers University
Diego Cubero, University of North Texas
Alejandro Cueto, University of Texas at Austin
Nick Curry, Harvard Law School
David Damschroder, University of Minnesota
Joe Davies, University of Oxford
Joe Davies , University of Oxford
James Q. Davies, UC Berkeley
Stacey Davis, University of Texas at San Antonio
Angharad Davis, Yale University
Hannah Davis-Abraham, University of Toronto
Laina Dawes, Columbia University
Greg Decker, Bowling Green State University (Ohio)
Kyle DeCoste, Columbia University
Rob Deemer, State University of New York at Fredonia
Galen DeGraf, Columbia University
Tomoko Deguchi, Winthrop University
Michael Dekovich, University of Oregon
Hayden Denesha, Rock Hill Symphony Orchestra
Jay Derderian, Composer - Portland, Oregon
Johanna Devaney, Brooklyn College and CUNY Graduate Center
Dana DeVlieger, University of Delaware
Joshua DeVries, University of Michigan
David Dewar, University of Bristol, UK
Emily DeWolfson, Temple University
Thomas Dickinson, South Carolina Governor's School for the Arts and Humanities
Brittni Leigh Dixon, Florida State University
Kendall Durelle Briggs, DMA, Professor of Music, The Juilliard School
Benjamin Dobbs, Furman University
Julia Doe, Columbia University
Brienne Dolce, Institute of Historical Research
James Donaldson, McGill University
Sahara Donna, University of North Texas

Luka Douridas, RILM (Répertoire International de Littérature Musicale)
Eric Drott, University of Texas at Austin
Aleksandra (Sasha) Drozzina, Toronto, ON
Daniel Nicolae Dubei, New York City, NY
Michèle Duguay, The Graduate Center, CUNY
Ben Duinker, University of Toronto
Craig Duke, Indiana University
Philip Duker, University of Delaware
Melissa Dunphy, Rutgers University
Jonathan Dunsby, Eastman School of Music
Jacques Dupuis, Brandeis University
Dave Easley, Oklahoma City University
Michael Ebie, Michigan State University
Ryan Ebright, Bowling Green State University
Lindsey Eckenroth, Brooklyn College, CUNY
Ethan Edl, Yale University
Lolita Emmanuel, Sydney Conservatorium of Music, University of Sydney
Laura Emmery, Emory University
Neal Endicott, Michigan State University
Christopher Endrinal, Florida Gulf Coast University
Clare Sher Ling Eng, Belmont University
Nora Engebretsen, Bowling Green State University
Tom Erbe, UC San Diego
Walter Everett, University of Michigan
Sara Everson, Florida State University
Philip Ewell, Hunter College
Samuel Falotico, University of Colorado Boulder
David Falterman, Eastman School of Music, University of Rochester
Tobias Fasshauer, Berlin University of the Arts
Joe Feagin, Texas A&M University
Fred Fehleisen, The Juilliard School
Brent Ferguson, Washburn University and MidAmerica Nazarene University
Matthew Ferrandino, University of Kansas
Abigail Fine, University of Oregon
Stanley Ralph Fink, Florida State University
Aaron Flagg, The Juilliard School
Amy Fleming, Baylor University
Nathan Fleshner, University of Tennessee
J. Wesley Flinn, University of Minnesota Morris

Rebecca Flore, University of Chicago
David Walter Floyd, Champaign, IL
Gretchen Foley, University of Nebraska-Lincoln
Mike Ford, Columbia University
Jane Forner, Columbia University
Karen Fournier , University of Michigan @ Ann Arbor
Elizabeth Fox, University of Toronto
Aaron Andrew Fox, Dept. of Music, Columbia University
Kelly Francis, Kennesaw State University
Peter Franck, Western University
Kristin M. Franseen, Carleton University and University of Ottawa
Walter Frisch, Columbia University
Simon Frisch, The Juilliard School
Louise Fristensky, The University of North Texas
Johanna Frymoyer, University of Notre Dame
Dr Sophie Fuller, Trinity Laban Conservatoire of Music and Dance, UK
Anna Fulton, Grand Valley State University
Alison Furlong, Columbus, OH
Joshua Gailey, Seattle, WA
Rachel Gain, University of North Texas
Michael Gallope, University of Minnesota
Bronwen Garand-Sheridan , Yale
Orlando Jacinto Garcia, Florida International University
Sarah Gates, Northwestern University
Leslie Gay, University of Tennessee, Knoxville
David Geary, Wake Forest University
Molly Gebrian, University of Arizona
Robin Gebrian, West Hartford CT
William van Geest, University of Michigan
Ian Gerg, Southeastern Oklahoma State University
Sarah Gerk, Binghamton University
Emily Gertsch , University of Georgia
Elaine Fitz Gibbon, Harvard University
Jeffrey L. Gillespie , Butler University
Mylene Gioffredo, Universite de Metz
Irene Girtton, Occidental College
Jon-Tomas Godin, Brandon University
Keir GoGwilt, UC San Diego
Daniel Goldberg, University of Connecticut

Halina Goldberg, Indiana University, Bloomington
Rachel May Golden, University of Tennessee
K. E. Goldschmitt, Wellesley College
Grace Gollmar, University of Texas at Austin
Stephen Gomez-Peck, The Graduate Center, CUNY
Juan Gonzalez, Alumni
Sumanth Gopinath, University of Minnesota Twin Cities
Stephen Gosden, University of North Florida
Gillian L. Gower, University of Denver/University of Edinburgh
Naomi Graber, University of Georgia
Thomas Gracy, Boston University
Benjamin Graf, University of North Texas
Aaron Grant, Missouri Western State University
Roger Mathew Grant, Wesleyan University
Julianne Grasso, University of Texas at Austin
Ashley A. Greathouse, PhD Candidate, University of Cincinnati
Andrew Green, University of Glasgow
Laura Gayle Green, Florida State University
Hannah Greene, Yale College (alum)
Stefan Greenfield-Casas, Northwestern University
phillip greenlief, oakland, ca
Jess Griggs, Austin, TX
Michelle L Grosser, University of Toronto
Bree Kathleen Guerra, University of Texas at Austin
Jeannie Ma. Guerrero, Rochester, NY
Massimo Guida, Toronto
Massimiliano Guido, Pavia University, Italy
Stephanie Gunst, independent scholar, Charlottesville, VA
Toni Haastrup, UK
Sara Haefeli, Ithaca College, Editor of the Journal of Music History Pedagogy
Zaki Hagins, Conservatorium Maastricht
Lauren Halsey, University of Washington
Elizabeth Hambleton, UCSB
Chelsey hamm, Christopher Newport University
Scott Hanenberg, Virginia Tech
Mena Mark Hanna, Barenboim-Said Akademie, Berlin
Marc Hannaford, University of Michigan
Calder Hannan, Columbia University
Kristi Hardman, The Graduate Center, CUNY

Matthew Harikian, University of Minnesota
J. Tanner Harrod, Graduate Student, University of Nebraska-Lincoln
Lauren Hartburg, Florida State University
Dr. Daniel Hartley, Trinity Laban Conservatoire of Music & Dance
Robert Hasegawa, McGill University
Amy Hatch, University of North Texas/University of Texas at Arlington
Stan Hawkins, University of Oslo and University of Agder, Norway
Midavi Hayden, Independent Artist-Scholar; Cincinnati, OH
Martin Hebel, University of Cincinnati College-Conservatory of Music
Garrett Hecker, Santa Fe College (Gainesville, FL)
Nicola Leonard Hein, Columbia University New York
Haley Heinrichs, Harvard University
David Heinsen, University of Texas at Austin
Bill Heinze, University of Minnesota
Salvador Hernandez, University of North Texas
Matthias Heyman, University of Antwerp, Belgium
Laura Hibbard, University of Connecticut
Andrew Hicks, Cornell University
Orit Hilewicz, Eastman School of Music
Ann Hiloski-Fowler, West Chester University of Pennsylvania
Ellie M. Hisama, Columbia University
Jocelyn Ho, UCLA
Hubert Ho, Northeastern University
Trevor Hofelich, Florida State University
John Hollenbeck, Schulich School of Music, McGill University
Kevin Holm-Hudson, University of Kentucky
Julian Bennett Holmes, Manhattan School of Music; Columbia University
Heather Holmquest, Nazareth College
Knut Holtstraeter, University of Freiburg, Germany
Tanya Honerman, University of Kansas
Erika Supria Honisch, Stony Brook University
Jason Hooper, University of Massachusetts Amherst
Fred Hosken, Northwestern University
Rachel Hottle, McGill University
Blake Howe, Louisiana State University
Alison Howell, Rutgers University
Madeleine Howey, Indiana University
Amanda Hsieh, University of Toronto
Charles Hsueh, Stony Brook University

Daniel Huang, University of Cincinnati College-Conservatory of Music
Stephen S. Hudson, University of Richmond
Bryn Hughes, The University of Lethbridge
Tim Hughes, The London College of Music
James Humberstone, Sydney Conservatorium of Music, The University of Sydney
Eric Hung, Music of Asian America Research Center
Kyle Hutchinson,
Liam Hynes-Tawa, Yale University
Brendan Ige, Eastern Michigan University
Sarah Iker, Massachusetts Institute of Technology
Mark Inchoco, University of California, Riverside
Tom Ingram, Winnipeg, MB
Lauren Irschick, Eastman School of Music
Thomas Irvine, University of Southampton
Eric Isaacson, Indiana University Jacobs School of Music
Velia Ivanova, Columbia University
Roman Ivanovitch, Indiana University
Jennifer Iverson, University of Chicago
Joseph R Jakubowski, Harvard University
Joseph Jakubowski, Harvard University
Donald James, Boston College
Mark Janello, Peabody Conservatory, Johns Hopkins University
Freya Jarman, University of Liverpool, UK
Jason Jedlicka, Cleveland Institute of Music
J. Daniel Jenkins, University of South Carolina
Stephanie Jensen-Moulton, Brooklyn College, CUNY
Emily John, Special Music School, NYC, Queens College - CUNY
James A. John, Aaron Copland School of Music, Queens College-CUNY
Tom Johnson, contingent faculty
Lindsay Johnson, University of Maryland, Baltimore County
Erin Johnson-Williams, Durham University
Blair Johnston, Indiana University
Erin Johnston, The Graduate Center, CUNY
Evan Jones, Florida State University
Alexandrea Jonker, McGill University
Tamyka Jordon, Louisiana State University
Patricia Julien, University of Vermont
Sylvia Kahan, College of Staten Island and Graduate Center, CUNY
Elyse Kahler, University of Texas at Arlington

Noah Kahrs, Eastman School of Music
Peter Kaminsky, University of Connecticut - Storrs
Seth Keele, University of North Texas
Robert T. Kelley, Lander University
Laura L. Kelly, University of Texas at San Antonio
Matthew Kennedy, University of South Florida
Colin Kennedy, Washington, DC
Emily Kenyon, South Country Central School District
Marissa Kerbel, University of Cincinnati
Linda Kernohan, The Ohio State University, Otterbein University
Daniel Ketter, Daniel Ketter
Dr. Ildar D. Khannanov, Peabody Institute, Johns Hopkins University
Wes Khurana, University of Toronto
Marianne Kielian-Gilbert, Indiana University
Marina Kifferstein, CUNY Graduate Center
Catrina Kim, University of North Carolina at Greensboro
Jesse Kinne, Louisiana Tech University
Jesse Kiser, University at Buffalo
Michael L. Klein, Temple University
Joshua Klopfenstein, University of Chicago
Edward Klorman, McGill University
Andrew J Kluth, Case Western Reserve University
Corissa Knecht, University of Arizona
Douglas Knehans, College-Conservatory of Music, Cincinnati, OH
Andrew Knight-Hill, University of Greenwich, UK
Kristina Knowles, Arizona State University
Melinda Knowling, University of North Texas
Jon Kochavi, Swarthmore College
Emily Koh, University of Georgia
Tatiana Koike, Yale University
Adam J. Kolek, Rowan University
Robert Komaniecki, University of Iowa
Kevin Korsyn, University of Michigan
Ryan Kosseff-Jones, Geneva, NY
Stephen M. Kovaciny, Madison, WI
Sarah Koval, Harvard University
Mariusz Kozak, Columbia University
Reiner Krämer, University of Northern Colorado
Joseph Kraus, Florida State University

Hanisha Kulothparan, Michigan State University
Jonathan Kulp , University of Louisiana at Lafayette
Anita Kumar, Georgia State University
Jaclyn Noel Kurtz, Cuyahoga Falls, Ohio
Darren A. LaCour, Lindenwood University
Eric Lai, Baylor University
Hei-Yeung John Lai, University of British Columbia
steven laitz, the Juilliard School
Nathan Lam, Massachusetts Institute of Technology
George Tsz-Kwan Lam, Hong Kong Baptist University
Wing Lau, University of Arkansas
Heather Laurel, Independent Scholar (Mannes/CUNY Alum)
Justin Lavacek, University of North Texas
Megan Lavengood, George Mason University
TJ Laws-Nicola , University of Kansas
Kara Yoo Leaman, Oberlin College & Conservatory
Gavin Lee, Soochow University
Dickie Lee, University of Georgia
Christina Lee, Mannes College - The New School, The Juilliard School, CUNY Graduate Center
Frank Lehman, Tufts University
Marc LeMay, Georgia State University
Jordan Lenchitz , Florida State University
Chris Lennard, The University of Texas at Austin
Rebecca Lentjes, RILM Abstracts of Music Literature
Kendra Preston Leonard, Silent Film Sound and Music Archive
Stephen Lett, University of Saskatchewan
Anne Levitsky, Dixie State University
Tamara Levitz, UCLA
Benjamin R. Levy, University of California, Santa Barbara
Michael Lewanski, Depaul University, School of Music
Edwin Li, Harvard University
Pengcheng Li, The Graduate Center, CUNY
Siv B. Lie, University of Maryland
Stephen F. Lilly, Minneapolis, MN
Stephanie Lind, Queen's University (Canada)
Sarah Allison Lindmark, University of North Carolina, Chapel Hill
Peng Liu, University of Texas at Austin
Kerrith Livengood, University of Illinois
Zachary Lloyd, Florida State University

Judy Lochhead, Stony Brook University
Charity Lofthouse, Hobart and William Smith Colleges, Geneva, NY
Megan Long, Oberlin College
James A. Long, Oakland University
Rebecca J. Long, University of Louisville
Gerardo (Gerry) Lopez, Michigan State University
Eduardo López-Dabdoub, Florida State University
Ralph Lorenz, Syracuse University
Sarah Loudon, New York University Steinhardt
Gabriel Lubell, Indiana University Jacobs School of Music
Ann E Lucas, Associate Professor of Music, Boston College
Olivia R. Lucas, Louisiana State University
Nicholas Luciano, Greensboro, NC
Rachel Lumsden, Florida State University
Justin Lundberg, Chicago
Siriana Lundgren, Harvard University
Vivian Luong, University of Saskatchewan
Matthew Lyons, University of Texas at Austin
Megan Lyons, University of Connecticut
Yiqing Ma, University of Michigan
James MacKay, Loyola University New Orleans
Barbara Dobbs Mackenzie, RILM, Brook Center, CUNY Graduate Center
Julian Maddox, Cleveland Institute of Music
Alejandro L. Madrid, Cornell University
Andrus Madsen, Newton Baroque
Erin K. Maher, Delaware Valley University
Su Yin Mak, The Chinese University of Hong Kong
Victoria Malawey, Macalester College (St. Paul, MN)
Anabel Maler, University of Iowa
Noriko Manabe, Temple University
Kate Mancey, Harvard University
Rachel Mann, University of Texas Rio Grande Valley
Dr. Nicole Marchesseau, McMaster University
Elizabeth Margulis, Princeton University
Sarah Marlowe, Eastman School of Music
Jennifer Martin, University of Wisconsin-Milwaukee
Caitlin Martinkus, Virginia Tech
David Marvel, University of Oklahoma
William Marvin, Eastman School of Music

Elizabeth Marvin, Eastman School of Music
Will Mason, Wheaton College
Steven D. Mathews, University of Cincinnati
T.J. Mattson, University of North Texas
Fred Everett Maus, Department of Music, University of Virginia
Paula Maust, University of Maryland, Baltimore County
Panayotis Mavromatis, New York University
Horace Maxile, Baylor University
Braden Maxwell, Eastman School of Music
Susan McClary, Case Western Reserve University
Ryan McClelland, University of Toronto
Michael McClimon, Philadelphia, PA
Sarah McConnell, University of Alaska Fairbanks
Patrick McCreless, Yale University
Stephen McFall, Indiana University
Cana F. McGhee, Harvard University
Claire McGinn, University of York
Eric McKee, Penn State University
Tim McKinney, Baylor University
Elizabeth McLain, Virginia Tech
Myles McLean, University of North Texas
Ken McLeod, University of Toronto
Andrew Mead, Jacobs School of Music, Indiana University
Andrew Mead, Indiana University
Elizabeth Medina-Gray, Ithaca College
Sarah Mendes, University of Texas at Austin
Sadie Menicanin, University of Toronto
Lila Meretzky, Yale University
Kathryn Renae Metcalf, Japan
Mark Micchelli, University of Pittsburgh
Garrett Michaelsen, University of Massachusetts Lowell
Jason Louis Mile, London, ON
Emily Milius, University of Oregon
Natalie Miller, Princeton University
McKensie Miller, Chapman University
Brian A. Miller, Yale University
Connor Milstead, St. Mary's College of Maryland
Helen Julia Minors, Kingston University, London
Nathaniel Mitchell, Princeton University

Toru Momii, Columbia University
Peter Mondelli, University of North Texas
Dayna Mondelli, Independent Proofreader and Copyeditor
Eugene Montague, George Washington University
Luiz Felipe Stellfeld Monteiro, Escola de Música e Belas Artes do Paraná (EMBAP), Curitiba, Brazil
Steven Moon, University of Pittsburgh
Steven Vande Moortele, University of Toronto
Rebecca Moranis, University of Toronto
Kacie Morgan, UCLA
Alexander Morgan, New York
Landon Morrison, Harvard University
Brian Moseley, SUNY Buffalo
Imani Danielle Mosley, University of Florida
Tahirih Motazedian, Vassar College
Andre Mount, Crane School of Music, SUNY Potsdam
Reinaldo Moya , Augsburg University, Minneapolis, Minnesota
Dorian Mueller, University of Michigan
Stephen Muir, University of Leeds, UK
Scott Murphy, University of Kansas
Alana Murphy, CUNY Graduate Center/ RILM
Barbara Murphy, University of Tennessee-Knoxville
Nancy Murphy, University of Houston
Estelle Murphy, Maynooth University, Ireland
Derek J. Myler, Eastman School of Music
Robert Nance, University of North Texas
Jessica Narum, Baldwin Wallace University
Meghan Naxer, Oregon State University
Jocelyn Neal, University of North Carolina at Chapel Hill
Severine Neff, University of North Carolina at Chapel Hill, Emeritus
Dr. Lisa Neher, Portland, OR
Christoph Neidhöfer, McGill University
Trevor R. Nelson, Eastman School of Music--University of Rochester
Anna Rose Nelson, University of Michigan
Joshua Neumann , University of Florida
Bryce Newcomer, Xavier University
Neil Newton, Los Angeles, CA
Patrick Nickleson, Queen's University
Demi Nicks, The Graduate Center, CUNY

Maggie Nicks, Florida State University
Jack Haig Nighan, Indiana University
Drew Nobile, University of Oregon
Michael Norris, Victoria University of Wellington
Felipe Ledesma Núñez, Harvard University
Shaugn O'Donnell, The City College, CUNY
William O'Hara, Gettysburg College
Russell O'Rourke, Columbia University
Jennifer Oates, Queens College, CUNY
Chelsea Oden, University of Oregon
Judith Ofcarcik, Fort Hays State University
Mitch Ohriner, University of Denver
Hideaki Onishi, Singapore
Dani Van Oort, University of North Texas
Michael Oravitz, University of Northern Colorado
Jeremy Orosz, University of Memphis
David Orvek, Indiana University
Mariam Osman, Indiana University
Anna-Elena Pääkkölä, Åbo Akademi University, Finland
Kirsten Paige, Stanford University
Cora S. Palfy, Elon University
James Palmer, Vancouver, Canada
Jinny Park, Indiana University
Hyeonjin Park, UCLA
Joon Park, University of Arkansas
Sarah Parkin, London, UK
Laurel Parsons, University of Alberta
Daniel Partridge, Portland State University
Morgan Patrick, Northwestern University
Andrew Pau, Oberlin College & Conservatory
William Pearson, DePauw University
Robert D. Pearson, Emory University
Jacy Pedersen, University of Cincinnati
Julie Pedneault-Deslauriers, University of Ottawa
Crystal Peebles, Ithaca College
Nathan Pell, Nathan Pell
Rich Pellegrin, University of Florida
Anna C. Peloso, Indiana University, Jacobs School of Music
Naomi Perley, RILM

Jeffrey Perry, Louisiana State University
Lukas Perry, Eastman School of Music, University of Rochester
Becky Perry, Lawrence University
V Spike Peterson, University of Arizona
Marie-Ève Piché, McGill University
Marcelle Pierson, University of Pittsburgh
Miriam Piilonen, Northwestern University
John R. Pippen, Colorado State University
Chad Polk, Cleveland Institute of Music
Cayenna Ponchione-Bailey, University of Oxford
Mariana Poole, Elon University
Ève Poudrier, University of British Columbia
Andrew S. Powell, Independent Scholar (University of Kansas alum)
Sarah Pozderac-Chenevey, Independent scholar, Akron, OH
Roxane Prevost, University of Ottawa
Simon Prosser, The Graduate Center, CUNY
Jasbir Puar, Rutgers University
Joel Puckett, Peabody Conservatory, Johns Hopkins University
Katherine Pukinskis, Amherst College
Michael Puri, University of Virginia
Ian Quinn, Yale University
Steven Rahn, University of Texas at Austin
Shanika Ranasinghe, Royal Holloway, University of London
Richard Randall, Carnegie Mellon University
Jacob Reed, University of Chicago
S. Alexander Reed, Associate Professor, Ithaca College
John S. Reef, Nazareth College
Sam Reenan, Eastman School of Music
Alan Reese, Cleveland Institute of Music
Alex Rehding, Harvard University
Samuel Reich, Denison University/University of Cincinnati
Molly Reid, Appalachian State University
Connor Reinman, Indiana University
Christopher Reynolds, UC Davis
Anne-Marie Reynolds, Juilliard School
Adam Ricci, UNC Greensboro
Mark Richardson, East Carolina University
Melanie Richter-Montpetit, University of Sussex
Deborah Rifkin, Ithaca College

Steven Rings, University of Chicago
Marianna Ritchey, University of Massachusetts, Amherst
Blake Ritchie, Rutgers University
S R I Rizvi, Sahibganj College, Sahibganj, Jharkhand, India
Malia Jade Roberson, California State University, Channel Islands
Brian Robison, Northeastern University
Joti Rockwell, Pomona College
Stephen Rodgers, University of Oregon
Lynne Rogers, Mannes School of Music at The New School
Jillian C. Rogers, Indiana University
Allyson Rogers, McGill University
J. Griffith Rollefson, University College Cork
Jena Root, Youngstown State University (Ohio)
Adam Rosado, Iona College
Rachel Rosenman, Harvard University
Joshua Rosner, McGill University
Martin Ross, Western University
Jade Roth, McGill University
Paul N Roth, University of San Diego California
Katrina Roush, University of Texas Rio Grande Valley
Charles Roush, University of Texas Rio Grande Valley
Toby W. Rush, University of Dayton
Declan Ryan, DePaul University School of Music
Eron F. S. , Eastman School of Music
Siavash Sabetrohani, University of Chicago
Siavash Sabetrohani , University of Chicago
Alex Sallade, The Ohio State University
Keith Salley, Shenandoah University
Mark Sallmen, University of Toronto
Cristina Saltos , University of Texas at Austin
Frank Samarotto , Indiana University Bloomington
Lanier Sammons, California State University, Monterey Bay
Alexander Sanchez-Behar, Texas A&M University-Kingsville
Olga Sánchez-Kisielewska, University of Chicago
Felicia Sandler, New England Conservatory
Giorgio Sanguinetti, University of Rome "Tor Vergata"
Matthew Leslie Santana, UC San Diego
Matthew C. Saunders, Lakeland Community College (Kirtland, Ohio)
Isaac Schankler, Cal Poly Pomona

Andrew Schartmann, New England Conservatory
James Schippers, Michigan State University
Alexandria Schneider, University of Kansas
Katherine Schofield, King's College London
Peter Schubert, McGill University
Matthew D. M. Schullman, University of Oklahoma (Norman)
Scott Schumann, Central Michigan University
Emily Schwitzgebel, Northwestern University
Travis Scott, Xavier University of Louisiana
Jo Collinson Scott, Reader in Music, University of the West of Scotland
Derek B. Scott, University of Leeds, UK
Tyler M. Secor, University of Cincinnati College Conservatory of Music
Chris Segall, University of Cincinnati
Kate Sekula, University of Science and Arts of Education
Ian Sewell, Columbia University
Douglas Shadle, Vanderbilt University
Kayla Shaeffer, Florida State University
Jennifer Shafer, University of Delaware
Daniel Shanahan, The Ohio State University
August A. Sheehy, Stony Brook University
Jack Sheinbaum, University of Denver
Braxton D. Shelley, Harvard University
Joel T. Shelton, Elon University
Lauren Shepherd, Columbia University
Christopher Sherwood-Gabrielson, University of Michigan
Julissa Shinsky, University of Texas at Austin
Rachel Short, Shenandoah Conservatory
Tessa Shune, Chapman University
Abigail D. Shupe, Colorado State University
Max Silva, University of Chicago
Rebecca Simpson-Litke, University of Manitoba
Peter Sloan, UC San Diego
Jeremy W. Smith, University of Louisville
Stephen Decatur Smith, Stony Brook University
Kelli Smith-Biwer, University of North Carolina - Chapel Hill
Sean R. Smither, The Juilliard School
Peter Smucker, Stetson University
Jennifer Snodgrass, Appalachian State University
Alexandra Sobrino, Miami, Florida

Danielle Sofer, LGBTQ+ Music Study Group
Emma Soldaat, University of Toronto
Jason Solomon, Agnes Scott College
Jessica Sommer, Ball State University
Jonathan De Souza, University of Western Ontario
Stephen Spencer, The Graduate Center, CUNY
Mark Spicer, Hunter College and the Graduate Center, CUNY
Scott Spiegelberg, DePauw University
Martha Sprigge, University of California, Santa Barbara
Ron Squibbs, University of Connecticut
Alexander Stalarow, San Francisco Conservatory of Music
Jonathan Arthur Stallings, University of California San Diego
Justin Stanley, University of Oregon
Deborah Stein, New England Conservatory of Music
Anna Stephan-Robinson, West Liberty University
Jonathan Sterne, McGill University
Daniel Stevens, University of Delaware
Bryan Stevens, University of North Texas
Joseph Stiefel, Indiana University
Philip Stoecker, Hofstra University
Nicholas Stoia, Duke University
Jordan Carmalt Stokes, West Chester University of Pennsylvania
Chris Stover, University of Oslo
Eva-Maria van Straaten, Georg-August University Göttingen, Germany
Jeremy Strachan, Queen's University
Joseph Straus, CUNY Graduate Center
Ofir Stroh, Blair School of Music
Cara Stroud, Michigan State University
Greg Stuart, University of South Carolina
Jacob David Sudol, Florida International University
Rina Sugawara, University of Chicago
James Sullivan, Michigan State University
Peter M. Susser, Columbia University
Kaitlyn Swaim, University of North Texas
Kevin Swinden, Wilfrid Laurier University
Kelly Symons, Ottawa
Victor Szabo, Hampden-Sydney College
Kristin Taavola, University of Denver
Lina Sofia Tabak, CUNY Graduate Center

Carlos Pérez Tabares, University of Michigan
Ivan Tan, Brown University
Daphne Tan, University of Toronto
Nicholas Ivan Tapia, St. Mary's University (Music Education)
Jeremy Tatar, McGill University
Benjamin Tausig, SUNY Stony Brook
Ryan Taycher, Roosevelt University
Timothy D. Taylor, UCLA
Charles Taylor, University of New Orleans
Blake Taylor, University of Connecticut
Emma Taylor, The Hartt School at the University of Hartford
Samuel Teeple, The Graduate Center, CUNY
Wilfrido Terrazas, University of California, San Diego
Loretta Terrigno, The Juilliard School
Bryan Terry, McGill University
Florian Thalmann, Kyoto University
Robert Gross, Board Certified Music Therapist, Denton, TX
Midge Thomas, Connecticut College
Sean Emmett Thompson, San Francisco State University
Alexis Millares Thomson, University of Toronto
Emmi Tinajero, University of North Texas
Spencer Topel, Brooklyn, New York
Peter van Tour, Norwegian Academy of Music, Oslo
Sylvie Tran, University of Michigan
Emily Lamb Truell, Indiana University
Caitlan Truelove, Graduate Student, University of Cincinnati
Dale Trumbore, Los Angeles, CA
Tobias Tschiedl, McGill University
Cynthia Johnston Turner, University of Georgia
Isabel Tweraser, Florida State University
Kristian Twombly, Chair, St Cloud State University
Dr. Finn Upham, McGill University, Schulich School of Music
Elizabeth Randell Upton, UCLA
Diane Urista, Cleveland Institute of Music
Stephanie Venturino, Eastman School of Music
Vivek Virani, University of North Texas
Samantha Waddell, Michigan State University
Ben Wadsworth, Kennesaw State University
Steve Waksman, Smith College

Daniel K.S. Walden, University of Oxford
Kristen Wallentinsen, Rutgers University
Zachary Wallmark, University of Oregon
Levi Walls, University of North Texas
Robert Walser, Case Western Reserve University
Jordan Walsh, University of Texas at Austin
Aleisha Ward, National Library of New Zealand
Evan Ware, California State Polytechnic University, Pomona
Lindsay Warrenburg, Boston, MA
Hannah Waterman, Stony Brook University
Laura Watson, Maynooth University, Ireland
Andrew H. Weaver, The Catholic University of America
Miriam Brack Webber, Bemidji State University
Katelin Webster, The Ohio State University
Joelle Welling, University of Calgary
Robert Wells, University of Mary Washington
Allison Wente, Elon University
Marianne Wheeldon, University of Texas at Austin
Andrew Malilay White, University of Chicago
Christopher White, University of Massachusetts Amherst
Jason White, Wilfrid Laurier University
Juliet White-Smith, The Ohio State University
Ryan Whittington, Florida State University
Anya Wilkening, Columbia University
Ann Marie Willer, (formerly) University of North Texas
Matthew Williams, University at Buffalo
Dr. Natalie Williams, (formerly) North Park University
Justin Williams, University of Bristol (UK)
Jeff Williams, Harvard University
Ruthie Williamson, Indiana University Kelley School of Business
Julianna Willson, Eastman School of Music
Lauren Wilson, Eastman School of Music
Imogen Wilson, Columbia University
Christopher Witulski, Bowling Green State University
Elizabeth L. Wollman, Baruch College, CUNY
Kathryn Woodard, Philadelphia, PA
Chelsea N Wright, University of Oregon
Robert B. Wrigley, The Graduate Center, CUNY
Alice Xue, CUNY

Jessica Findley Yang, University of Tennessee - Knoxville
Rachel Yoder, DigiPen Institute of Technology
Michelle Yom, CUNY Graduate Center
Anna Yu Wang, Harvard University
Jeff Yunek, Kennesaw State University
Jason Yust, Boston University
Anna Zayaruznaya, Yale University
Emily Zazulia, University of California, Berkeley
Lawrence Zbikowski, University of Chicago Department of Music
Kamil zeglen, Chapman university
Spencer Zembrodt, Florence, KY (SUNY Fredonia, 2018)
Xieyi (Abby) Zhang, Georgia State University
Rosalind Zhang, Toronto
Shelley Zhang , University of Pennsylvania
Zhuo Zhao, Rutgers University
Julie Zhu, Stanford University



March 2, 2021

Dear Dr. Jackson,

Thank you for your response to the Ad Hoc Panel's Report of Review of Conception and Production of Vol. 12 of the *Journal of Schenkerian Studies* (JSS). I was heartened that you accepted some of the panel's recommendations, including: 1) the publication of a clear and transparent explanation for the journal's editorial process; 2) the appointment of an editor-in-chief who is a full-time tenured faculty member; and 3) the inclusion of a conflict-of-interest statement concerning submissions by editorial staff and members of the editorial board. I also note that you did not address the panel's fourth recommendation, which concerns issues of governance and oversight. Furthermore, you reserved the right for the journal to publish contributions that are not peer reviewed. It is important that faculty in the division and college who have an interest in the journal share an understanding of the credibility these changes will bring to the journal.

The university is moving forward with a plan to ensure that the JSS remains a prominent venue for peer-reviewed scholarship of the highest quality. In consultation with Dean John Richmond and Chair Benjamin Brand, I am charging the Division of Music History, Theory, and Ethnomusicology to launch a national search for a new editor-in-chief who is a full-time tenured faculty member preferably at an R1 university or comparable conservatory of music. This editor then will determine the membership of the JSS editorial board, recruiting new members as needed and renewing existing members as appropriate. In close collaboration with the board, the new editor will establish clear and transparent guidelines concerning the governance structure of the journal and its editorial, review, and publication practices, including the board's oversight role and whether the journal will publish contributions that are not peer reviewed. I expect these guidelines to comport well with the publication standards of *A Short Guide to Ethical Editing for New Editors* of the Council for Publication Ethics. The editor and board will be responsible for defining a timeline, selection of articles and other details related to the publication of the next volume of the JSS. The editor and board also will consult with Dean Richmond and Chair Brand to define the future relationship of the JSS with the College of Music, the Division of Music History, Theory, and Ethnomusicology, and the UNT Press; and on the opportunities for our graduate students to participate in the editorial process.

Dean Richmond, Chair Brand, and I are eager to see the *Journal of Schenkerian Studies* continue to make important contributions to the discipline of music theory. We are confident it will do so through the university's course of action outlined above. Thank you, once again, for participating in this review process.

Sincerely,

Jennifer Cowley, PhD
Provost and Vice President for Academic Affairs

ELLEN BAKULINA, PH.D. 10/16/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 vs.) CASE NO. 4:21-CV-00033-ALM
7 LAURA WRIGHT, et al.,)
8 Defendants.)

9 VIDEOTAPED ZOOM ORAL DEPOSITION OF
10 ELLEN BAKULINA, PH.D.
11 October 16, 2024
12 (Reported Remotely).
13

15 VIDEOTAPED ORAL DEPOSITION OF ELLEN BAKULINA, PH.D.,
16 produced as a witness at the instance of the Plaintiff
17 and duly sworn, was taken in the above-styled and
18 numbered cause on the 16th day of October, 2024,
19 from 9:03 a.m. to 3:54 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported remotely by computerized stenotype
22 machine at the physical location of the Witness, Ellen
23 Bakulina, Ph.D., in Montreal, Canada, pursuant to the
24 Federal Rules of Civil Procedure and the provisions
25 stated on the record or attached hereto.

ELLEN BAKULINA, PH.D. 10/16/2024

3

I N D E X

	PAGE
1	
2	
3 Appearances.....	2
4 Stipulations.....	5
5 ELLEN BAKULINA, PH.D.	
6 Direct Examination by Mr. Allen.....	6
7 Reporter's Certificate.....	227
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

ELLEN BAKULINA, PH.D. 10/16/2024

2

A P P E A R A N C E S

FOR THE PLAINTIFF:

3 Michael Thad Allen
4 ALLEN LAW, LLC
5 P.O. Box 404
6 Quaker Hill, CT 06375
7 Telephone: 860.772.4738
8 Fax: 860.469.2783
9 E-mail: M.allen@allen-lawfirm.com

FOR THE DEFENDANTS:

9 Mary Quimby
10 Assistant Attorney General
11 General Litigation Division
12 P.O. Box 12548, Capital Station
13 Austin, Texas 78711
14 Telephone: 512.463.2120
15 Fax: 512.320.0667
16 E-mail: Mary.Quimby@oag.texas.gov

14 - and -

15 Renaldo Stowers (Appearing Live)
16 Cari Jacoby
17 University of North Texas System
18 Office of General Counsel
19 801 North Texas Boulevard
20 Denton, Texas 76201
21 Telephone: 940.565.2717
22 Fax: 940.369.7026
23 E-mail: Renaldo.Stowers@untssystem.edu
24 cari.jacoby@untssystem.edu

ALSO PRESENT:

22 Timothy Jackson, Plaintiff

VIDEOGRAPHER:

24 Mr. Jason Warner
25 Legal Video Group
lvg.dallas@gmail.com
214-598-5229

ELLEN BAKULINA, PH.D. 10/16/2024
4

1	Exhibit 10	Email Chain Ending Jackson to	
2		Cubero, et al.	
3		(UNT 000304 - 000309).....	144
4	Exhibit 11	Letter, 7-29-20, Bakulina to	
5		Richmond	
6		(UNT 000116 - 000309).....	150
7	Exhibit 12	Email, 7-29-20, Bakulina to	
8		Brand, et al.	
9		(UNT 000488).....	158
10	Exhibit 13	Email, 7-31-20, Richmond to	
11		Music Faculty, et al.	
12		(UNT 000568).....	160
13	Exhibit 14	Ad Hoc Review Panel Report	
14		(Exhibit D)	
15		(JACKSON000208 - 000233).....	164
16	Exhibit 15	Email Chain, Re: Statement on	
17		JSS Issue	
18		(UNT 000361 - 000363).....	175
19	Exhibit 16	Email Chain Re: Meeting with	
20		Journal Review Panel, Wed.	
21		Sept. 16	
22		(UNT 002509).....	186
23	Exhibit 17	Email Chain Re: Talk with the	
24		UNT Ad Hoc Journal Review Panel	
25		(UNT 002555).....	196
	Exhibit 18	Undated Letter, Bakulina to	
		Richmond	
		(UNT 002559 - 002561).....	203
	Exhibit 19	Email Chain Ending 5-17-21,	
		Brand to Cowley, et al.	
		(UNT 005054 - 005055).....	208

1 possible that we interacted between his plenary address
2 and the publication of Volume 12 of JSS, yes.

3 Q. Did anything prevent you from reaching out to
4 Philip Ewell individually and inviting him to participate
5 in Volume 12 of the Journal of Schenkerian Studies?

6 MS. QUIMBY: Objection, form.

7 A. I think my membership on the Journal of
8 Schenkerian Studies board prevented me from inviting him
9 personally to. So I would not -- I felt I could not
10 invite him and say like, hey, Phil, do you want to write
11 a response to the responses or response to something? I
12 could not. I felt I could not invite him on my own like
13 this because I was a member of JSS board.

14 Q. What prevented you, as a member of the JSS
15 board, from inviting Philip Ewell personally?

16 A. What prevented me was that as a board member, I
17 was -- I thought at least, maybe it was a wrong
18 perception, but I felt like as a board member, JSS
19 board member, I was sort of under the directions of its
20 advisory board, which, at that time, was Timothy Jackson
21 and Stephen Slottow. And because I was less empowered
22 in the division, meaning that I did not have tenure and
23 they both did and still do --

24 Q. Uh-huh.

25 A. -- I didn't feel enough independence to do what

1 A. In the scholars of the field, yes. I think,
2 yes.

3 Q. But yet you felt that you could speak to him
4 about issues concerning publication in Theoria, right?

5 MS. QUIMBY: Objection, form.

6 A. Wait. Was it the same year?

7 Q. The Theoria article came out in 2020, right?

8 MS. QUIMBY: Objection, form.

9 Q. The same year?

10 MS. QUIMBY: Objection, form.

11 A. Yes. But it doesn't mean that the discussion
12 happened at the same time.

13 Q. Well, any discussions you had with Philip Ewell
14 over anything related to the publication in Theoria, did
15 you feel somehow intimidated by him?

16 MS. QUIMBY: Objection, form.

17 A. No, I did not feel intimidated by Philip Ewell
18 with respect to publication in Theoria mostly because he
19 was not in a position to give me any directions. His
20 article and my article in Theoria were on par with each
21 other and the third one by Segall. We were on par with
22 each other. And I might not remember perfectly well,
23 but I don't think Philip Ewell and I discussed much with
24 respect to articles in Theoria. I would not discuss with
25 him. I would discuss it with the editor.

1 I wanted to do. I felt like I needed to -- obey is not
2 the right word. To -- I felt submissive, I guess,
3 because I was afraid basically of being too independent.
4 I was afraid to say things to the advisory board, that
5 they would not -- I thought they would not necessarily
6 like what I did.

7 Q. That didn't prevent you from raising the
8 issue that they should delay the publication of
9 Volume 12 because the plenary session was going to be
10 published in Music Theory Spectrum, did it?

11 MS. QUIMBY: Objection, form.

12 A. That did not prevent me, correct.

13 Q. And you had just been at a talk in November
14 of 2019 where Philip Ewell received a standing ovation,
15 right?

16 MS. QUIMBY: Objection, form.

17 A. Yes.

18 Q. Did you feel an inability to speak to Philip
19 Ewell in any way?

20 MS. QUIMBY: Objection, form.

21 A. No.

22 Q. Did you feel there was a, quote, power
23 differential, between you and Philip Ewell as scholars
24 in the field?

25 MS. QUIMBY: Objection, form.

1 Q. Were you intimidated by Frank Heidlberger as
2 the editor of the journal Theoria?

3 MS. QUIMBY: Objection, form.

4 A. Intimidated by the fact that he was the
5 editor or by something that he said?

6 Q. By the fact that he was the editor.

7 A. No, not really.

8 Q. Okay.

9 A. I was not in any situation with respect to my
10 publication in Theoria that would create any problematic
11 events, no.

12 Q. When you were formulating the call for papers
13 of the Journal of Schenkerian Studies to solicit articles
14 for the Symposium --

15 A. Um-hum.

16 Q. -- do you recall any discussion about whether
17 there should be a specific ideological focus of the
18 submissions?

19 MS. QUIMBY: Objection, form.

20 A. I remember that the call for responses. Now, I
21 don't actually remember the final form of the call for
22 responses.

23 Q. Um-hum.

24 A. But one of the drafts of the call for
25 responses, I remember seeing that email stated

1 Q. And I just had a few more questions about that,
2 and then we'll move on to talking about the Schenker
3 controversy.

4 A. Sure.

5 Q. But I just -- if you could, for the record, can
6 you identify anytime before July of 2020 when you were
7 the direct witness to Professor Jackson exercising
8 disproportionate power over Mr. Walls?

9 MS. QUIMBY: Objection, form. Excuse me.
10 Only indirectly. And so this is a little bit of a
11 guess. But I will say, because I think it is relevant,
12 I'm speaking of Walls' master's thesis. So his
13 master's thesis is an analysis of an opera, Schenkerian
14 analysis of an opera by a woman composer, French, from
15 the nineteenth century. Schenkerian analysis of large
16 portions of music. First of all, it's very difficult.
17 And I applaud Levi for doing that. It's hard to do.

18 Q. Um-hum.

19 A. It seemed to be very strongly influenced by Dr.
20 Jackson's thinking and intellectual style.

21 Q. Um-hum.

22 A. Because Jackson did an analysis of an opera
23 around that time. I think he did -- well, I won't. I
24 won't say things that I don't remember exactly. But he
25 did an analysis of an opera. And he genuinely likes

1 doing Schenkerian analysis of extremely large portions
2 of music, including operas. And when I was working with
3 Levi, it occurred to me more than once. I was thinking,
4 is it possible that he did all of this on his own? Like
5 how much is this influenced by Jackson? So this is the
6 only thing I can say. It looked like it was heavily
7 influenced by Jackson. How much it was -- how much, you
8 know, was it influenced or was it more Dr. Jackson sort
9 of dictating more what to do to Levi Walls, I don't know.

10 Q. Okay.

11 A. So it's not about, you know, a specific
12 interaction that I witnessed. It's something that I can
13 only guess based on the intellectual substance of that
14 thesis.

15 Q. And in your interactions with the editorial
16 staff of the Journal of Schenkerian Studies leading up to
17 the issuing of call for papers, did you have any direct
18 knowledge of Levi Walls being affected by a so-called
19 power differential between him and Timothy Jackson?

20 A. The power differential was obvious. I
21 was not aware of any incidents, no. But the power
22 differential was obvious because the fact that the
23 Journal editor was the student of someone on the advisory
24 board, Timothy Jackson, it was obvious that Jackson at
25 least would have an influence on the editor. So it was

1 obvious that the editor, Walls, would not be independent
2 in making his decisions. He was obviously dependent on
3 his -- on Jackson primarily because Jackson was his
4 advisor.

5 Q. Was he so dependent on Professor Jackson as his
6 advisor that it prohibited him from expressing
7 independent views on Philip Ewell's work?

8 MS. QUIMBY: Objection, form.

9 A. I don't know. I can't speculate about that.

10 Q. Okay.

11 A. But I think it's possible, because the
12 topic is extremely sensitive. And I know from personal
13 experience that it's not easy to have objective opinions,
14 and it's easy to sort of feel intimidated when it comes
15 to sensitive topics.

16 Q. Do you think Professor Walls -- strike that.

17 Do you think Mr. Walls was more intimidated by
18 Timothy Jackson or more intimidated by the Society for
19 Music Theory's open letter condemning the Journal of
20 Schenkerian Studies that he edited as a student editor?

21 MS. QUIMBY: Objection, form.

22 A. I don't know. I am in no position to judge
23 about his -- how he feels or felt. I don't know.

24 Q. You said you were close to Mr. Walls. Did
25 he ever discuss feeling unable to express his views on

1 Timothy Jackson with you?

2 MS. QUIMBY: Objection, form.

3 A. No, never.

4 Q. Thank you. Let's talk about the Schenker
5 controversy. And by Schenker controversy, do you
6 understand I mean the controversy that erupted in July
7 of 2020 when Volume 12, and especially the Symposium,
8 came to light for the first time?

9 A. Um-hum.

10 Q. Okay. When did you personally realize there
11 was going to be a controversy surrounding Volume 12 of
12 the Journal of Schenkerian Studies?

13 MS. QUIMBY: Objection, form.

14 A. When I saw Facebook post that described the
15 Volume 12 as -- as problematic. It used the word
16 "racist." Racist, yeah.

17 Q. Who was the -- who was the author of the
18 Facebook post that you read, if you recall?

19 A. Christopher Segall.

20 Q. Um-hum. Was Christopher Segall a contributor
21 to Volume 12?

22 A. Yes.

23 Q. Do you remember Christopher Segall complaining
24 that there was anything racist about the process before
25 he published?

1 A. Yes.

2 Q. I have just one -- well, a couple of questions.

3 You would have received this email as well, right?

4 MS. QUIMBY: Objection, form.

5 A. I don't know. I'm not listed -- oh, I'm

6 listed. I think so. As I said, it's difficult to

7 remember everything.

8 Q. What is the musicfaculty@unt.edu, if you

9 know?

10 A. I should have been part of that, yes.

11 Q. Okay. Is it your understanding that these

12 are collective emails that go out to all members of

13 faculty, all members of music staff, music adjuncts?

14 A. Yes.

15 Q. And you're, of course, on faculty at this time,

16 right?

17 A. Yes.

18 Q. And you said you were in Montreal?

19 A. Yes.

20 Q. Did you retire there because of -- not

21 retire, but did you remove yourself to Montreal

22 because of COVID?

23 A. No. It's because I spent every summer in

24 Montreal. In fact, anytime I was not teaching, I spent

25 in Montreal, because of my family.

1 Q. Oh, great. And so, of course, it was

2 summertime. It was the end of July?

3 A. Um-hum, yes.

4 Q. You weren't on a faculty appointment up there

5 of any kind, right?

6 A. I was on faculty at UNT. I did not work

7 anywhere else.

8 Q. Okay. I meant in Montreal, so thanks.

9 All right. So there is no reason to believe

10 that you would not have received this email?

11 A. No, there is no reason.

12 Q. Okay. When Dean Richmond writes that the

13 College of Music reaffirms the dedication to combating

14 racism, what was your understanding of what he was

15 referring to?

16 MS. QUIMBY: Objection, form.

17 A. My understanding was that he confirmed that

18 inclusion was important at UNT.

19 Q. And why was he, as you understood it,

20 reaffirming this dedication to combating racism in

21 this announcement?

22 MS. QUIMBY: Objection, form.

23 A. This is because Volume 12 of JSS created an --

24 what's the word -- not unpleasant, objectionable public

25 image of UNT.

1 Q. Um-hum.

2 A. Because it's important not only what every

3 individual thinks what inclusion means, what racism

4 means, and so on, but also the public image of something.

5 So when Volume 12 of JSS came out, the public image of

6 UNT was affected, and this is what this email was about.

7 Q. Um-hum. Was the Journal of Schenkerian Studies

8 ever published again after July 31st, 2020, to your

9 knowledge?

10 A. To my knowledge, no.

11 Q. Do you think that reflected well on the

12 University of North Texas?

13 MS. QUIMBY: Objection, form.

14 A. I don't know. It's -- the question is too

15 general. I don't know.

16 Q. I'm going to transition to talking about what

17 two documents that you referred to. Well, actually, all

18 three documents besides some of the email correspondence

19 that you referred to when I asked you what documents you

20 had looked at to prepare for your deposition. This would

21 be the petition signed by faculty, the petition signed by

22 students, and the Ad Hoc Panel Report of November 25th,

23 2020. So I'm going to mark for the record the Ad Hoc

24 Panel Report.

25 (Deposition Exhibit Number 14 marked.)

1 MR. ALLEN: And you'll have to give me a

2 second here. I seem to have lost it. Where did it go?

3 I'm going to need a second to -- sorry. I had this

4 exhibit, and now I don't seem to have it anymore. I

5 think this is it. Okay. I apologize, Professor

6 Bakulina. One of the deposition exhibits I was going

7 to show you, I misplaced, and I'm finding it again.

8 Q. So I'm marking for the record as Exhibit 14,

9 the Ad Hoc Panel Report. And I'm also going to publish

10 that into the chat. We're just going to wing this.

11 All right. So we're not going to go through

12 the entire report. But the report had attached to it

13 certain exhibits of its own that I have marked as part

14 of the entire report. I'm only doing this because that

15 keeps them all in one place. But for our purposes, I

16 want to call your attention to a document that was

17 attached to the Ad Hoc Panel Report. And again, I'm not

18 trying to hide anything.

19 Do you recognize this document as the Ad Hoc

20 Panel Report of Review of Conception and Production of

21 Volume 12 of the Journal of Schenkerian Studies dated

22 November 25, 2020, correct?

23 A. Yes. Yes, I do.

24 Q. And do you recall that various documents

25 were appended to the end of that report, including

1 A. Okay.

2 Q. And the fact is that's why I'm asking, because

3 I don't know. It's in close proximity to Exhibit 17,

4 which is an email, including an attachment, that is

5 referred to in the letter -- excuse me, in the email

6 as "the letter I sent to Dean Richmond on July 29th,

7 2020."

8 Okay. And then later in the record, but a

9 few pages only, we find this. But of course, if it was

10 an attachment, it doesn't say I am an attachment. Do

11 you know what I mean? I'm just trying to see --

12 A. Oh, I see, I see, I see. So you are asking if

13 this is part of my report. Can I look once again at my

14 report to Dean Richmond?

15 Q. Absolutely.

16 A. Whatever that was the report for, I don't know.

17 Q. The previous exhibit?

18 A. I'm sorry. My English is getting --

19 Q. I understand.

20 A. The thing that I wrote for the Dean Richmond.

21 Q. I'm sorry. Yes. Sorry, I'm trying to find it.

22 It is just going to take me one second. That is not the

23 correct one. I know it's in here. Hold on.

24 Here it is. I believe it's Exhibit 11. Do

25 you recall examining --

1 A. Yes. I recall examining it like an hour or two

2 ago.

3 Q. And I would represent to you that at least

4 the portions I've highlighted from July 29th, 2020 to

5 subparagraph (a), beginning on November 15th, 2019, are

6 more or less identical except for the date which somehow

7 got lost to this exhibit?

8 A. Yes. It's part of the same thing. I agree.

9 Q. Okay. Thank you.

10 A. Yes.

11 Q. I don't have any further questions about that.

12 I just wanted to authenticate that for the record,

13 Professor Bakulina.

14 So after the ad hoc panel issued its report,

15 which we've already examined to some extent and has been

16 introduced as an exhibit in this deposition, what

17 happened next?

18 MS. QUIMBY: Objection, form.

19 A. I understand you are asking about the Journal.

20 Q. Yes. What first activities did you engage in

21 concerning the Journal of Schenkerian Studies after

22 November 2020?

23 A. I see. I was invited by the dean, I think, the

24 dean to serve on a search committee that looked for

25 a new editor. And I served on that until the time I left

1 UNT.

2 Q. And what did you do as a person on the search

3 committee?

4 A. So first, we formulated a description of the

5 position.

6 Q. Um-hum.

7 A. And then we received, I think, two

8 applications. I don't have it anymore. And we

9 reviewed the applications.

10 (Deposition Exhibit Number 19 marked.)

11 MR. ALLEN: I do want to ask you about

12 that. I just want to mark for the record Exhibit 19.

13 Exhibit 19 is an email string from Benjamin Brand and

14 Jennifer Cowley, Renaldo Stowers, John Richmond. And

15 then it looks like it attaches a call for applications,

16 Editor of Journal of Schenkerian Studies.

17 Do you recognize this email?

18 MS. QUIMBY: Objection, form.

19 A. I see. I don't recognize this email. I

20 don't know if I received it.

21 Q. And I see that you are not on the string. So

22 if your answer is no, that's a perfectly fine answer.

23 A. Um-hum.

24 Q. Do you see this next email is, in Exhibit 19 is

25 --

1 A. Yes.

2 Q. -- from SMT-announce on behalf of Bakulina,

3 Ellen. And this is your email, correct?

4 A. Yes, so I guess I was the one who sent it to

5 SMT-announce.

6 Q. And it's dated May 15th, 2021, right?

7 A. Yes.

8 Q. And I know this is small, so I'm going to blow

9 it up a little bit here. Can you read that?

10 A. Yes, I can.

11 Q. It starts UNT 5054, and it continues over

12 the next page, right? And I'm going to get rid of this

13 highlight. What is this Dear Colleagues document that

14 you have circulated to the SMT-announce list?

15 A. Sorry. Let me read. One minute.

16 Q. Yeah.

17 A. Seeking applications.

18 Q. Hold on. I just -- I'm sorry. That wasn't

19 intentional.

20 A. No problem. Okay. That's a different

21 document, right?

22 Q. My apologies. This should be it. I'm sorry.

23 I opened a new document, and it jumped out of the way.

24 It's one of the perils of virtual depositions, so please

25 have as much time as you want to examine this document.

1 A. Okay. Yes, I am ready for questions.
 2 Q. Okay. And I just want to scan down to the next
 3 page, which goes over to UNT 5055.
 4 A. Um-hum.
 5 Q. And I just -- to highlight here, your name is
 6 at the bottom where it says, "Inquiries, nominations, and
 7 application materials should be directed to the search
 8 committee chair Jessica Nápoles via email. Search
 9 committee members include:"
 10 And your name is listed as the first member,
 11 correct?
 12 A. Yes.
 13 Q. What is this document?
 14 A. It's the call for applications.
 15 Q. Call for applications for a new editor?
 16 A. Yes.
 17 Q. And was it your understanding that Timothy
 18 Jackson could not serve on the Journal of Schenkerian
 19 Studies editorial staff?
 20 A. No. It was not my understanding that he
 21 could not serve on this.
 22 Q. That was not communicated to you by Benjamin
 23 Brand?
 24 MS. QUIMBY: Objection, form.
 25 A. It was never formulated that Timothy Jackson

1 cannot apply for this.
 2 Q. Okay. And it says -- I'm just looking at the
 3 second sentence that begins, "We hope."
 4 Do you see that?
 5 A. Yes.
 6 Q. Right here?
 7 A. Yes, yes. I do, I do.
 8 Q. I just wanted to read that into the record.
 9 "We hope that the new editor or editors will
 10 help rejuvenate the journal, redefine it in light of the
 11 current state of music theory as a field, and restructure
 12 and rebrand it to promote its long term viability."
 13 Did I read that correctly?
 14 A. Yes.
 15 Q. Can you tell me, as a member of the search
 16 committee, what you meant by redefine the Journal in the
 17 light of the current state of music theory as a field?
 18 A. Because Volume 12 of the Journal was involved
 19 with Philip Ewell's ideas, I think that redefining the
 20 journal would deal with redefining it in relation to
 21 ideas of antiracism and redefining it with respect to
 22 the growing diversity of SMT. And also, redefining it
 23 with respect to the growing globalization of our field.
 24 Q. Uh-huh.
 25 A. Because our field -- I mean, JSS is an American

1 publication. And for a time, American music theory was
 2 relatively, not entirely, but relatively isolated. And
 3 there were real reasons for it. I'm
 4 not criticizing it right now. But there came a time
 5 gradually, but especially maybe, I will say maybe 20
 6 years ago, 15 years, where it was no longer just American
 7 music theory.
 8 Q. Um-hum.
 9 A. And the field was changing and is still
 10 changing globally around the world. And so there are
 11 music theorist societies now in many countries. There
 12 are some in Asia, and those are some of the youngest
 13 ones. There is one in Russia. There are some in Europe.
 14 And some of them are older and some are those are newer.
 15 Q. Um-hum.
 16 A. And more -- more than all of that, there's more
 17 and more interaction. So the field is being globalized.
 18 And to me, the rejuvenation of the Journal mentioned in
 19 this call for applications means that Schenkerian
 20 analysis, if it is to continue existing,
 21 it will continue existing in this new and much larger
 22 cultural context.
 23 Q. Um-hum.
 24 A. Not the context -- not necessarily or not only
 25 the context, you know, of former Schenker followers or

1 Schenker students coming to the U.S. That was extremely
 2 important to the twentieth century, but no longer there.
 3 You know, how does the Journal and how does the area of
 4 Schenkerian studies exist in a more globalized world, in
 5 a world where all of these different cultures and all of
 6 these different countries and societies in the different
 7 countries interact and languages interact and ideas
 8 interact. And there is, of course, also, yes, greater
 9 racial and gender and other diversity in SMT itself in
 10 America. And that's really a context that simply did
 11 not exist some time ago. And I don't think this ever
 12 says that Timothy Jackson cannot do it or cannot apply
 13 for it. This is more about really two things: The role
 14 of the Journal in the new universe, may I say, and the
 15 role of the new universe or the changing universe,
 16 changing global intellectual context, in relation to
 17 what exists in Schenkerian studies nowadays.
 18 Q. Okay. And following after the clause that
 19 calls for the redefining of the Journal in the current
 20 state of music theory as a field -- in the light of the
 21 current state of -- it says, "restructure and rebrand
 22 the Journal to promote its long term viability."
 23 If I asked you what that meant, would your
 24 answer be more or less the same?
 25 A. Yes, but it also would be more, and I can --

213

215

1 Q. Please.

2 A. Rebrand. I think I -- somebody did not come up
3 with this word, but I can tell you what I understand by
4 it.

5 (Cat sounds)

6 Q. She's tired at the end of the day, too, I
7 think. Sorry, I interrupted you. So we were asking --
8 you were going to define what your understanding of
9 rebranding a journal was. I apologize. I couldn't
10 resist with the cat sound.

11 A. No problem. The contents of a journal -- and
12 I'm not specifically talking about JSS, any journal or
13 any conference, there are things that are being analyzed,
14 pieces that are being analyzed, sources that are being
15 cited. In a way, that is the branding. You know, so if
16 I read a journal whose latest issue analyzes, let's say,
17 I don't know, Stravinsky, Bartók, and I don't know,
18 Rochberg or somebody like that, my first thought would
19 be that it's a journal on twentieth century art music.
20 If I need a journal that, you know, has in its latest
21 issue, I don't know, seven articles out of which six
22 are on various genres of popular music, I will probably
23 think that it's a journal on popular music or something
24 like that.

25 And I think that -- so I haven't reviewed

1 received two applications?

2 A. Yes.

3 Q. Who applied?

4 A. I don't remember the names. I am so very
5 sorry. I honestly don't recall the names. Both of
6 them are not well-known scholars in the field, which I
7 personally like that fact. That means that, you know,
8 people who haven't yet had an opportunity to show their
9 work a lot or their qualifications a lot would have an
10 opportunity to work. That's all I can say. I wish I
11 could recall the names.

12 Q. Were there documents reflecting the
13 applications of these individuals?

14 A. They were CDs in both cases.

15 Q. Were there any other documents that concerned
16 these two applications that you know of?

17 A. Let's see. There would be a -- there would
18 be the -- I don't remember if the cover of the CD would
19 be a separate documents. Or maybe the cover was simply
20 the email itself. Give me one minute, please.

21 Q. Can you just describe what you are doing there?

22 A. I'm reading the exhibit, the document that
23 you've shared, because I'm trying to see if we asked for
24 cover letter and CD separately or were they the same.
25 Okay. It would be here. Correct, thank you. At least

214

216

1 the last issues of JSS, of course, not counting
2 Volume 12. But I think that most people agree that
3 existing materials in JSS up to Volume 12 are mostly on
4 European music of the tonal era. Is that logical? Well,
5 that's the things that Schenker analyzed primarily. So
6 yes, a Journal of Schenkerian studies following in the
7 traditional Schenker logically seems completely good.

8 However, I also think that if the readership
9 of the journal made an effort to include pieces that go
10 beyond the, you know, white male, European composers of
11 certain centuries and made greater effort to publish
12 about the book of women, for example, or to publish
13 about, I don't know, an article about perhaps fully
14 tonal work by a -- non-like composer or American
15 composers. You know, there's more diversity there than
16 Europe. And that would also encourage more diversity in
17 future volumes. So to me, rebranding means, you know,
18 changing the contents of -- let's say, one volume or
19 two volumes would change how these journals would be
20 perceived in the future and showing the direction.

21 Q. So the new direction really had to embrace
22 new content of the kind you've described?

23 A. Yes, to me.

24 Q. Yes. And sorry. To follow up on something you
25 said earlier, you said to your knowledge, the committee

1 up to there, I'm sorry. I guess the cover letter for CD
2 was separate, okay, but I don't recall the details.

3 Q. Do you recall internal communications of the
4 committee about these two applications?

5 A. Yes. We -- yes.

6 Q. Would you have met to discuss them in person?

7 A. No. It was during the pandemic.

8 Q. Uh-huh. By Zoom?

9 A. It was by email.

10 Q. Okay. And so there would also be email
11 correspondence among the committee members reflecting
12 these two allocations, right?

13 MS. QUIMBY: Objection, form.

14 A. I think so.

15 Q. Okay. And you read those emails yourself,
16 correct?

17 MS. QUIMBY: Objection, form.

18 Q. At least as long as you were at the University
19 of North Texas, right?

20 A. As long as I was at UNT, yes.

21 Q. And are you -- do you have any knowledge of why
22 neither of these applicants were appointed?

23 A. I remember that one of them didn't have enough
24 experience in editorial work, or maybe both, but the
25 other one, I don't recall.

1 _____
2 _____
3 I, ELLEN BAKULINA, have read the foregoing
4 deposition and hereby affix my signature that same
5 is true and correct, except as noted above.
6 _____
7 ELLEN BAKULINA
8
9
10 THE STATE OF _____)
11 COUNTY OF _____)
12
13 Before me, _____, on this
14 day personally appeared ELLEN BAKULINA, known to me or
15 proved to me on the oath of _____ or
16 through _____ (description of
17 identity card or other document) to be the person whose
18 name is subscribed to the foregoing instrument and
19 acknowledged to me that he/she executed the same for
20 the purpose and consideration therein expressed.
21 Given under my hand and seal of office on this
22 _____ day of _____, _____.
23
24 _____
25 NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

1 amount of time used by each party at the time of the
2 deposition;
3 Michael Thad Allen - 05 HRS: 49 MIN
Mary Quimby - 00 HRS: 00 MIN
4
5 FOR THE PLAINTIFF:
6 Michael Thad Allen
ALLEN LAW, LLC
7 P.O. Box 404
Quaker Hill, CT 06375
8 Telephone: 860.772.4738
Fax: 860.469.2783
9 E-mail: M.allen@allen-lawfirm.com
10
11 FOR THE DEFENDANTS:
12 Mary Quimby
Assistant Attorney General
13 General Litigation Division
P.O. Box 12548, Capital Station
14 Austin, Texas 78711
Telephone: 512.463.2120
15 Fax: 512.320.0667
E-mail: Mary.Quimby@oag.texas.gov
16
17 - and -
18 Renaldo Stowers (Appearing Live)
Cari Jacoby
19 University of North Texas System
Office of General Counsel
20 801 North Texas Boulevard
Denton, Texas 76201
21 Telephone: 940.565.2717
Fax: 940.369.7026
22 E-mail: Renaldo.Stowers@untsystem.edu
cari.jacoby@untsystem.edu
23
24 I further certify that I am neither counsel for,
25 related to, nor employed by any of the parties or

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5)
6 Plaintiff,)
7)
8 vs.) CASE NO. 4:21-CV-00033-ALM
9)
10 LAURA WRIGHT, et al.,)
11)
12 Defendants.)
13
14 REPORTER'S CERTIFICATION OF
15 ORAL DEPOSITION OF ELLEN BAKULINA, PH.D.
16 October 16, 2024
17
18 I, KIM D. CARRELL, a Certified Shorthand Reporter
19 in and for the State of Texas, hereby certify to the
20 following:
21 That the witness, ELLEN BAKULINA, was duly sworn
22 and that the transcript of the oral deposition is a
23 true record of the testimony given by the witness;
24 That the deposition transcript was duly submitted
25 on November, 12, 2024, to Mary Quimby, attorney for the
witness, for examination, signature, and return to me by
December 16, 2024;
That pursuant to the information given to the
deposition officer at the time said testimony was taken,
the following includes all partes of record and the

1 attorneys in the action in which this proceeding was
2 taken, and further that I am not financially or
3 otherwise interested in the outcome of the action.
4 Certified to by me on this 12th day of November,
5 2024.
6
7
8
9
10
11
12 Kim D. Carrell, CSR NO. 1184
Date of Expiration: 7-31-26
13 JULIA WHALEY & ASSOCIATES, INC.
2012 Vista Crest Drive
Carrollton, Texas 75007-1640
14 214-668-5578/Fax 972-236-6666
JulieTXCSR@gmail.com
15 Firm registration No. 436
Firm registration Expires 5-31-25
16
17
18
19
20
21
22
23
24
25

Message

From: Brand, Benjamin [Benjamin.Brand@unt.edu]
Sent: 5/17/2021 4:51:46 PM
To: Cowley, Jennifer [Jennifer.Cowley@unt.edu]; Stowers, Renaldo [Renaldo.Stowers@untsystem.edu]; Richmond, John [John.Richmond@unt.edu]
Subject: FW: [Smt-Announce] Call for Applications: Editor of the Journal of Schenkerian Studies

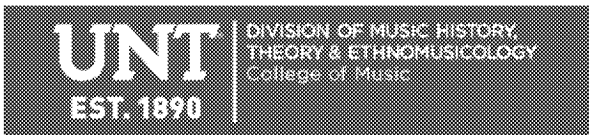
Dear Jennifer, John, and Renaldo,

The call for applications for a new editor of the JSS has been publicized on the SMT email list. Applications are due July 30. The search committee will begin its review of them shortly thereafter.

All the best,
Benjamin

Benjamin Brand, Ph.D.

Pronouns: he, him, his | Professor of Music History
Chair, Division of Music History, Theory, and Ethnomusicology
College of Music | University of North Texas | (940) 536-3561



From: Smt-announce <smt-announce-bounces@lists.societymusictheory.org> on behalf of Bakulina, Ellen <Ellen.Bakulina@unt.edu>
Sent: Saturday, May 15, 2021 4:22 PM
To: smt-announce@lists.societymusictheory.org <smt-announce@lists.societymusictheory.org>
Cc: Napoles, Jessica <Jessica.Napoles@unt.edu>
Subject: [EXT] [Smt-Announce] Call for Applications: Editor of the Journal of Schenkerian Studies

Dear Colleagues,

The University of North Texas (UNT) is seeking applications for a new editor or editorial team for the *Journal of Schenkerian Studies*. Editor(s) will serve a 3-year term, beginning (tentatively) no later than January 2022. We hope that the new editor(s) will help rejuvenate the journal, redefine it in light of the current state of music theory as a field, and restructure and rebrand it to promote its long term viability. We are open to the possibility of teams of co-editors, and/or editors with associate editors, applying for the editorial role. The relationships between the journal and its institutional stakeholders can be examined and revised where appropriate.

The Journal of Schenkerian Studies is the only peer-reviewed research journal featuring articles on all facets of Schenkerian thought, including theory, analysis, pedagogy, historical aspects, and reviews of relevant publications. It currently is published annually by the Center for Schenkerian Studies and the University of North Texas Press.

Previous issues of the journal can be found here:

<https://digital.library.unt.edu/explore/collections/JSCS>

The University of North Texas Press co-publishes the journal with the Center and/or journal editor. The Press receives final print-ready files from the Editor and arranges for print publication and dissemination to subscribers for each annual issue. Within one year of print publication the journal is loaded with the UNT Libraries for open access.

Job description/responsibilities:

The editor is responsible for developing a process for determining editorial board membership, terms and length of service, and restructuring of journal guidelines. The editor will also ensure a fair and high-quality peer review of articles written in (or related to) the traditions of prolongational analysis.

The journal is expected to abide by the Committee on Publications Ethics (COPE) guidelines regarding best practices in editorial management.

https://publicationethics.org/files/COPE_G_A4_SG_Ethical_Editing_May19_SCREEN_AW-website.pdf

Minimum Qualifications:

A record of sustained, high-quality research publication in peer-reviewed research journals
Expertise in Schenkerian analysis/Schenkerian studies

Preferred Qualification:

Editorial experience, as either an editor or an editorial board member of a research journal

Applications should include:

a cover letter with expression of interest in the position, including the candidate's goals for the journal
a curriculum vitae, including all contact information for the applicant
a list of 3 references with current contact information

Inquiries, nominations, and application materials should be directed to the search committee chair, Jessica Nápoles via email at Jessica.Napoles@unt.edu. Search committee members include:

Dr. Ellen Bakulina, Assistant Professor of Music Theory, UNT

Mr. Ron Chrisman, Director, UNT Press

Dr. Graham Hunt, Professor of Music Theory, UT Arlington

Dr. John Ishiyama, University Distinguished Research Professor of Political Science, UNT

Dr. Jessica Nápoles, Associate Professor of Choral Music Education, UNT

All applications must be submitted electronically in a single .pdf. Review of applications begins July 30th and will remain open until filled.

BENJAMIN D. BRAND, Ph.D. 09/23/2024 1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 vs.) CASE NO. 4:21-CV-00033-ALM
7 LAURA WRIGHT, et al.,)
8 Defendants.)

9 *****

10 VIDEOTAPED ORAL DEPOSITION OF
11 BENJAMIN D. BRAND, Ph.D.
12 September 23, 2024

13 *****

14
15 VIDEOTAPED ORAL DEPOSITION OF BENJAMIN D. BRAND,
16 Ph.D., produced as a witness at the instance of the
17 Plaintiff and duly sworn, was taken in the above-styled
18 and numbered cause on the 23rd day of September, 2024,
19 from 1:14 p.m. to 6:11 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported by computerized stenotype machine at
22 the University of North Texas System, 801 North Texas
23 Boulevard, Gateway Suite #308, Denton, Texas, pursuant
24 to the Federal Rules of Civil Procedure and the
25 provisions stated on the record or attached hereto.

BENJAMIN D. BRAND, Ph.D. 09/23/2024 3

1 I N D E X
2
3 PAGE
4 Appearances..... 2
5 Stipulations..... 6
6
7 BENJAMIN D. BRAND, Ph.D.
8 Direct Examination by Mr. Allen..... 7
9

10 EXHIBITS
11
12 NUMBER DESCRIPTION MARKED
13 Exhibit 1 Re-Notice of Taking Deposition.... 7
14 Exhibit 2 Letter, 7-31-20, Allen to
15 Wright, et al.
16 (UNT 000157 - 000162)..... 37
17 Exhibit 3 Title Page of Theoria, Volume 26... 47
18 Exhibit 4 Walls Facebook Post
19 (JACKSON 000234 - 000236)..... 56
20 Exhibit 5 Email, 11-17-19, Walls to Jackson
21 (Exhibit G)
22 (JACKSON 000240 - 000244)..... 70
23 Exhibit 6 Material for the Committee
24 Emails
25 (UNT 002645 - UNT 002782)..... 78

BENJAMIN D. BRAND, Ph.D. 09/23/2024 2

1
2 APPEARANCES
3
4 FOR THE PLAINTIFF:
5 Mr. Michael Thad Allen
6 ALLEN LAW, LLC
7 P.O. Box 404
8 Quaker Hill, CT 06375
9 Telephone: 860.772.4738
10 Fax: 860.469.2783
11 E-mail: M.allen@allen-lawfirm.com

12 FOR THE DEFENDANTS:
13 Mr. Benjamin S. Walton
14 Assistant Attorney General
15 General Litigation Division
16 P.O. Box 12548, Capital Station
17 Austin, Texas 78711
18 Telephone: 512.463.2120
19 Fax: 512.320.0667
20 E-mail: Benjamin.Walton@oag.texas.gov
21 and -
22 Mr. Renaldo Stowers
23 University of North Texas System
24 Office of General Counsel
25 801 North Texas Boulevard
Denton, Texas 76201
Telephone: 940.565.2717
Fax: 940.369.7026
E-mail: Renaldo.Stowers@untssystem.edu

26 ALSO PRESENT:

27 VIDEOGRAPHER:
28 Mr. Tony McGough
29 Legal Video Group
30 lvg.dallas@gmail.com
31 214-598-5229

BENJAMIN D. BRAND, Ph.D. 09/23/2024

4

1 Exhibit 7 Ad Hoc Review Panel Report
2 (Exhibit D)
3 (JACKSON000208 - 000233)..... 84
4 Exhibit 8 Email, 12-11-20, Brand to Jackson
5 (JACKSON 000272)..... 87
6 Exhibit 9 Handwritten Notes, 9-16-20, Ad
7 Hoc Journal Review Committee..... 90
8 Exhibit 10 Emails Re: Questions regarding
9 the JSS
10 (UNT 002539 - 002546)..... 93
11 Exhibit 11 Emails Beginning 7-25-20, Chung
12 to Graf, et al.
13 (UNT 000304 - 000309).....101
14 Exhibit 12 Emails RE: JSS Beginning 7-25-20,
15 Chung to Graf, et al.
16 (UNT 000458 - 000463).....107
17 Exhibit 13 Response Draft, Heidlberger to
18 Brand, 7-27-20
19 (UNT 000472, 000503).....112
20 Exhibit 14 Emails RE: SMT Exec Board
21 response to JSS Essays
22 (UNT 000480, 000481).....118
23 Exhibit 15 Statement from the MHTe Graduate
24 Students (Confidential)
25 (Kohanski 000107 - 000110).....122

1 A. I'd say the tempo varies.
 2 Q. This last article of yours, was it peer
 3 reviewed?
 4 A. No.
 5 Q. Do you intend to submit that article for your
 6 annual review?
 7 A. No.
 8 Q. At some point, you mentioned you started
 9 working for the Berklee Conservatory? Did I get that
 10 wrong?
 11 A. The title is Berklee College of Music.
 12 Q. And is this -- correct me if I'm wrong.
 13 That's in Boston?
 14 A. That's correct.
 15 Q. When did you start working there, and what do
 16 you do there?
 17 A. I started working at the Berklee College of
 18 Music, I believe, in March of 2024. And my duties were
 19 to teach music history classes.
 20 Q. Have you left the University of North Texas?
 21 A. No.
 22 Q. Are you on sabbatical of some sort?
 23 A. No.
 24 Q. What is the nature of your position formally
 25 with Berklee?

BENJAMIN D. BRAND, Ph.D. 09/23/2024

1 A. As an -- my -- I serve as an adjunct
 2 instructor.
 3 Q. Are you still obligated to teach and so forth
 4 at UNT?
 5 A. No.
 6 Q. Have you held any other positions besides those
 7 that you've named at the Berklee Conservatory and the
 8 University of North Texas?
 9 A. Yes.
 10 Q. Can you please enumerate them?
 11 A. I currently hold the position of senior
 12 director of new ventures in digital strategy innovation
 13 at UNT.
 14 Q. New ventures? Is that what you said?
 15 A. Um-hum.
 16 Q. What is that and what is its relationship to
 17 UNT?
 18 A. Could you elaborate on relationship?
 19 Q. Well, let's break it into two parts. Describe
 20 for the record what new ventures is.
 21 A. New ventures is potential new projects of
 22 the division of digital strategy and innovation we may
 23 pursue.
 24 Q. And what is the relationship of new ventures to
 25 the larger institution, University of North Texas?

1 A. The relationship of the position is that it
 2 reports to the vice president of digital strategy and
 3 innovation.
 4 Q. Is it a center?
 5 A. No.
 6 Q. How long have you been associated with new
 7 ventures?
 8 A. I began that position in June of 2023.
 9 Q. So you were the division head in 2020, correct?
 10 A. I was the division chair in 2020.
 11 Q. I'm sorry. Thanks for correcting me.
 12 And do you recall a controversy arising in
 13 approximately July of 2020 involving the Journal of
 14 Schenkerian Studies?
 15 A. Yes.
 16 Q. Can you explain for the record your
 17 understanding of what that controversy was about?
 18 A. My understanding of the controversy is that
 19 it centered on the content and the quality of research
 20 in a volume of the Journal of Schenkerian Studies.
 21 Q. What about the content of the volume
 22 published by the Journal of Schenkerian Studies became
 23 controversial at that time?
 24 A. My recollection and my understanding is that
 25 a number of the contributions, the articles in the

BENJAMIN D. BRAND, Ph.D. 09/23/2024

1 Journal, were perceived to be racist.
 2 Q. Did you read the articles in the Journal --
 3 let's back up a second.
 4 Do you recall what volume of the Journal of
 5 Schenkerian Studies was published in that time period?
 6 A. To the best of my recollection, the number of
 7 the Journal, the number of the issue of the Journal or
 8 volume of the Journal was 12.
 9 Q. So if we refer to Volume 12, you'll know I'm
 10 talking about that specific publication that came out in
 11 July of 2020, right?
 12 A. Yes.
 13 Q. Likewise, just to get some formalities out of
 14 the way, if you or I refer to JSS, we'll both know and
 15 understand that refers to the Journal of Schenkerian
 16 Studies?
 17 A. Yes.
 18 Q. So let me back up and ask it again. Did you
 19 read Volume 12 of the Journal of Schenkerian Studies?
 20 A. I did not read it in its entirety.
 21 Q. Let me be more specific. In July of 2020, did
 22 you read the Journal then, even if you may not have read
 23 it in its entirety?
 24 A. In July?
 25 Q. Yes. How much of it did you read in July?

1 A. To the best of my recollection, I did
2 not perceive the criticisms that were being made of
3 Volume 12 of the JSS as threats to the UNT Academic
4 Integrity Policy.

5 Q. Is there an exception to the UNT's Academic
6 Freedom Policy for accusations of racism?

7 A. Not that I'm aware of.

8 Q. Going back to Volume 12 of the Journal
9 of Schenkerian Studies, what do you recall the main
10 criticisms of the Journal being? You've already
11 identified that, I guess, some people from outside
12 the University thought something was racist. People
13 from within the University, including the graduate
14 students and faculty, were submitting statements. We
15 will be able to review those in a second.

16 A. Um-hum.

17 Q. But I just wanted to ask you, besides attacks
18 on the content of the Journal, what were the criticisms
19 leveled at the University of North Texas Press? Excuse
20 me.

21 A. I don't --

22 Q. Strike that question.

23 What were the -- besides the things we've
24 already discussed, what were the criticisms leveled at
25 the Journal of Schenkerian Studies in this July 2020 to

1 November 2020 time frame?

2 A. As I recall, one of the main criticisms was
3 that some of the content of the volume was racist; that
4 some of the content of the volume was poorly researched
5 and of lower scholarly quality. Again, I'm paraphrasing.
6 And that the issue -- sorry. The volume in question had
7 not gone through a peer-review process. Those are the
8 three criticisms that I recall.

9 Q. And I believe you already testified that
10 you couldn't identify what specific content, at least as
11 you read it, was racist, right? You didn't have the
12 scholarly familiarity with that field or that specialty
13 to make a judgment?

14 A. As I recall, I didn't feel like I had the
15 scholarly expertise to make a definitive judgment as to
16 whether a certain article was racist or not.

17 Q. And about the scholarly or not scholarly, do
18 you remember what specifically was considered, quote, not
19 scholarly?

20 A. I would say the one thing that I recall
21 particularly clearly as an example of the quality of
22 research involved was the citation of a Wikipedia
23 article in one of the contributions. I believe that
24 contribution was by Dr. Jackson.

25 Q. Do you agree with that criticism, that a

1 journal that quotes Wikipedia in some shape or form is,
2 per se, not scholarly?

3 MR. WALTON: Form.

4 Q. Let me strike that question.

5 So was the -- to the best of your memory, was
6 the criticism that a journal article that cited Wikipedia
7 could not be scholarly?

8 A. To the best of my memory, that -- my
9 recollection, that was not a-- that was not the
10 criticism being made.

11 Q. What was the criticism?

12 A. As I recall, it was the way that the
13 Wikipedia article in question was being used as a
14 definitive source.

15 Q. Did you read that article and make a
16 determination of how that was being used as a, quote,
17 definitive source, I guess, as you've characterized it?

18 A. That was one of the articles I've read.

19 Q. And you've certainly published enough
20 yourself and are familiar enough with scholarship to
21 make a judgment about that, right?

22 A. I believe so.

23 Q. So did you find that invocation of Wikipedia,
24 for whatever reason in that article, to be, quote, not
25 scholarly, close quote?

1 A. As I recall reading that citation in Wikipedia
2 in particular, it struck me as -- as not something that
3 would be within the mainstream of normal scholarly
4 research practice.

5 Q. Did you ever confirm that it was false in any
6 way? The quotation to Wikipedia.

7 A. I don't recall whether it was a quotation of
8 some citation from a Wikipedia page.

9 Q. Good correction. Thank you.

10 Did you ever confirm that the information for
11 which Wikipedia was relied on for an authority was false?

12 A. I don't recall ever having reviewed the
13 Wikipedia page that was cited.

14 Q. Was there any evidence, to your knowledge, that
15 the information for which Wikipedia was invoked as an
16 authority was somehow false?

17 A. Could you repeat the question?

18 Q. Sure. Let me do a little more work here.

19 You were being bombarded by emails, messages,
20 that this was a controversy, correct?

21 MR. WALTON: Form.

22 Q. That there was something wrong with Volume 12
23 of the JSS?

24 A. I was receiving emails.

25 Q. And one of the criticisms in these emails was

1 Q. It doesn't say that, though, does it? It
2 says it was not his job to censor people, right?

3 A. That's what the text says.

4 Q. Isn't that right? It's not the job of an
5 editor to censor people, correct?

6 MR. WALTON: Form.

7 Q. Is there something funny about that question?
8 Is there a reason you are smiling?

9 A. Um.

10 MR. ALLEN: Do you have something to
11 say, Renaldo?

12 MR. STOWERS: We can go off the record.

13 MR. ALLEN: We can go off the record,
14 please.

15 THE VIDEOGRAPHER: We're off the record at
16 4:05 p.m.

17 (Recess taken)

18 THE VIDEOGRAPHER: We're back on the
19 record at 4:05 p.m.

20 MR. WALTON: Object to the form of the
21 question. It's badgering to the witness.

22 Q. Were you smiling when you read that,
23 Dr. Brand?

24 A. I was.

25 Q. Did me pointing that out seem offensive to you?

1 mark for the record as Exhibit Number 8. This is an
2 email from you, Professor Brand, to Timothy Jackson
3 titled Follow-Up, from December 11th, 2020.

4 A. Um-hum.

5 (Deposition Exhibit Number 8 marked.)

6 Q. It also has the Bates stamp JACKSON 000272.
7 Do you remember this email, Professor Brand?

8 A. I do.

9 Q. What was the purpose of your writing this email
10 to Timothy Jackson?

11 A. Could you restate the question?

12 Q. What was your purpose of sending this email
13 to Timothy Jackson on December 11th, 2020?

14 A. To clarify and confirm some points that I had
15 made verbally.

16 Q. You had met with Timothy Jackson at this
17 time?

18 A. Over Zoom.

19 Q. Of course. It was the COVID era, right? And
20 was that that same day?

21 A. I don't recall whether it was the same day
22 or not.

23 Q. It was within 24 hours of this date?

24 A. As I recall, it was within 48 hours of the
25 date.

1 A. It did not seem offensive, no.

2 Q. So I just asked if you found it funny.

3 A. I don't find it funny.

4 Q. So I'm asking, especially at a state
5 university, isn't it correct that the job of an
6 editor is not to censor people?

7 MR. WALTON: Form.

8 Q. I know this is getting long in the tooth,
9 but he's pointing out I'm asking a double negative
10 question, so let me try to rephrase that.

11 It's correct -- it's correct, that especially
12 at a state institution, it is not the job of an editor to
13 censor people, correct?

14 MR. WALTON: Form.

15 A. The job of an editor is to provide critical
16 feedback.

17 Q. Did you see any evidence that critical feedback
18 was not provided to the authors of the
19 Symposium other than whatever Levi Walls was posting
20 on Facebook?

21 A. Other than Levi Walls' post on Facebook, I have
22 not seen evidence that authors in that volume of
23 JSS were not receiving critical feedback.

24 MR. ALLEN: Sorry, Dr. Brand. I'm looking
25 for an exhibit that I wanted to show you. I'm going to

1 Q. Fair enough. And you told him that you could
2 not support a plan according to which he would remain
3 involved in the operations of the Journal of Schenkerian
4 Studies, correct?

5 MR. WALTON: Form.

6 A. As written in the email, I did tell him that
7 I couldn't support a plan according to which he would
8 remain in the day-to-day operations of the Journal.

9 Q. And this was based on your reading of the
10 Ad Hoc Panel Report that we had just introduced as
11 Exhibit 7?

12 A. Correct.

13 Q. And he also complained to you in that meeting
14 that he was preparing a response, correct?

15 A. As I recall, he did inform me that he was
16 preparing a response.

17 Q. And in that first sentence after, you know,
18 bullet point Number 3, you say, "You expressed your
19 desire that I read your response to the panel's report
20 before I make any definitive judgments and, of course, I
21 will read your report carefully when I receive it."

22 Did I read that correctly?

23 A. Yes.

24 Q. Did you receive his response?

25 A. I recall receiving his response.

BENJAMIN D. BRAND, Ph.D. 09/23/2024 141

1 UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF
 3 SHERMAN DIVISION
 4 TIMOTHY JACKSON,)
)
 5 Plaintiff,)
)
 6 vs.) CASE NO. 4:21-CV-00033-ALM
)
 7 LAURA WRIGHT, et al.,)
)
 8 Defendants.)
 9
 10 REPORTER'S CERTIFICATION OF
 11 ORAL DEPOSITION OF BENJAMIN D. BRAND, Ph.D.
 12 September 23, 2024
 13
 14 I, KIM D. CARRELL, a Certified Shorthand Reporter
 15 in and for the State of Texas, hereby certify to the
 16 following:
 17 That the witness, BENJAMIN D. BRAND, was duly
 18 sworn and that the transcript of the oral deposition is
 19 a true record of the testimony given by the witness;
 20 That the deposition transcript was duly submitted
 21 on October 21, 2024, to Mr. Benjamin Walton, the attorney
 22 for the defendants, for examination, signature, and
 23 return to me by November 22, 2024, (30 days);
 24 That pursuant to the information given to the
 25 deposition officer at the time said testimony was taken,
 the following includes all partes of record and the

BENJAMIN D. BRAND, Ph.D. 09/23/2024 143

1 otherwise interested in the outcome of the action.
 2 Certified to by me on this 21st day of October,
 3 2024.
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Kim D. Carrell, CSR NO. 1184
 Date of Expiration: 7-31-26
 JULIA WHALEY & ASSOCIATES, INC.
 2012 Vista Crest Drive
 Carrollton, Texas 75007-1640
 214-668-5578/Fax 972-236-6666
 JulieTXCSR@gmail.com
 Firm registration No. 436
 Firm registration Expires 5-31-25

BENJAMIN D. BRAND, Ph.D. 09/23/2024 142

1 amount of time used by each party at the time of the
 2 deposition;
 3 Michael Thad Allen - 03 HRS: 54 MIN
 Benjamin Walton - 00 HRS: 00 MIN
 4
 5 FOR THE PLAINTIFF:
 6 Mr. Michael Thad Allen
 ALLEN LAW, LLC
 7 P.O. Box 404
 Quaker Hill, CT 06375
 8 Telephone: 860.772.4738
 Fax: 860.469.2783
 9 E-mail: M.allen@allen-lawfirm.com
 10
 11 FOR THE DEFENDANTS:
 12 Mr. Benjamin S. Walton
 Assistant Attorney General
 13 General Litigation Division
 P.O. Box 12548, Capital Station
 14 Austin, Texas 78711
 Telephone: 512.463.2120
 15 Fax: 512.320.0667
 E-mail: Benjamin.Walton@oag.texas.gov
 16 - and -
 17 Mr. Renaldo Stowers
 University of North Texas System
 18 Office of General Counsel
 801 North Texas Boulevard
 19 Denton, Texas 76201
 Telephone: 940.565.2717
 20 Fax: 940.369.7026
 E-mail: Renaldo.Stowers@untsystem.edu
 21
 22 I further certify that I am neither counsel for,
 23 related to, nor employed by any of the parties or
 24 attorneys in the action in which this proceeding was
 25 taken, and further that I am not financially or

1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

<p style="text-align: center;">17</p> <p>1 journal reviewers knew my name. It's often -- in a small</p> <p>2 field, it's pretty easy to infer who an author is.</p> <p>3 Q. Sure. So let me just summarize, if possible.</p> <p>4 A double blind peer-review process means that both the</p> <p>5 author of an article and the outside reviewers of the</p> <p>6 author -- of the article remain anonymous to each other,</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And to the best of your knowledge, these</p> <p>10 peer-reviewed articles were double blind peer reviewed?</p> <p>11 A. To the best of my knowledge. My expectation is</p> <p>12 that they were all double blind peer reviewed.</p> <p>13 Q. Have you ever published articles that are not</p> <p>14 peer reviewed?</p> <p>15 A. Articles, no.</p> <p>16 Q. Textbook chap- -- go ahead. I'm sorry.</p> <p>17 A. On articles, no. I've done some journalistic</p> <p>18 writing, but that's, I think, a different matter.</p> <p>19 Q. In this book chapter you've listed in your CV,</p> <p>20 "Consonance and Dissonance," do you see where that is on</p> <p>21 the -- it looks like second page of Exhibit 2?</p> <p>22 A. Correct.</p> <p>23 Q. Was that peer reviewed?</p> <p>24 A. That was editor reviewed.</p> <p>25 Q. And could you describe that process in brief</p>	<p style="text-align: center;">19</p> <p>1 affiliation with Wesleyan University?</p> <p>2 A. Nope.</p> <p>3 Q. When did your association with Wesleyan end?</p> <p>4 MS. QUIMBY: Objection; form.</p> <p>5 A. My association with Wesleyan University ended</p> <p>6 when my visiting appointment was over in May -- let's see</p> <p>7 -- 2019.</p> <p>8 Q. (BY MR. ALLEN) Okay. Sorry if I pause between</p> <p>9 exhibits. It's because I'm keeping track of them and</p> <p>10 keeping track of their files names so I can circulate</p> <p>11 them eventually to the reporter.</p> <p>12 Are you familiar with a music theory journal</p> <p>13 called <i>Spectrum</i>?</p> <p>14 A. You are referring to <i>Music Theory Spectrum</i>.</p> <p>15 Yes.</p> <p>16 Q. Can you describe what <i>Music Theory Spectrum</i> is</p> <p>17 for the record, please?</p> <p>18 A. For the record, <i>Music Theory Spectrum</i> is, I</p> <p>19 believe, one of the official publications of the Society</p> <p>20 for Music Theory.</p> <p>21 Q. What's the Society for Music Theory?</p> <p>22 A. The Society for Music Theory is a professional</p> <p>23 society of music theorists.</p> <p>24 Q. Do you belong to the Society for Music Theory?</p> <p>25 A. I am -- I am currently a member of the SMT.</p>
<p style="text-align: center;">18</p> <p>1 for the record?</p> <p>2 A. Editor review is -- is a standard that is often</p> <p>3 used for edited collections that are published as books</p> <p>4 where book chapters are solicited from authors by a team</p> <p>5 of editors, and the pieces are reviewed by the editors.</p> <p>6 Q. And I believe you said you had -- how did you</p> <p>7 describe your non-peer reviewed publication efforts?</p> <p>8 Something like journalistic or popular or something of</p> <p>9 that nature?</p> <p>10 A. Yeah. Journalistic writing.</p> <p>11 Q. Where are those in your CV, if they are?</p> <p>12 A. They should be in other writings.</p> <p>13 Q. Is that this portion on the bottom of Page 2?</p> <p>14 A. Yes. The -- yeah. The bottom two items, in</p> <p>15 <i>The Wire</i> and <i>icareifyoulisten.com</i>. Yeah. Those are --</p> <p>16 those are -- those are journalistic writings.</p> <p>17 Q. And then what is the History of Music Theory</p> <p>18 blog? You've listed a publication under other writings,</p> <p>19 "Colonial Organology and Ornithology in Richard Ligon's</p> <p>20 Acoustics of Anthropological Difference." Did I read</p> <p>21 that right?</p> <p>22 A. Correct. Yes. That is a blog post that</p> <p>23 solicits short pieces, short reflections having to do</p> <p>24 with the history of music theory.</p> <p>25 Q. Okay. Do you retain any kind of institutional</p>	<p style="text-align: center;">20</p> <p>1 That is the Society for Music Theory.</p> <p>2 Q. And I believe you just used its acronym SMT,</p> <p>3 right?</p> <p>4 A. Uh-huh.</p> <p>5 Q. So if we say "SMT" we'll both understand we're</p> <p>6 refer to Society for Musical Theory, right?</p> <p>7 A. Correct. Music --</p> <p>8 Q. Thank you. Society for Music Theory just for</p> <p>9 the record. Thank you.</p> <p>10 A. Correct.</p> <p>11 Q. How important is the Society for Music Theory</p> <p>12 in your field?</p> <p>13 MS. QUIMBY: Objection; form.</p> <p>14 Go ahead.</p> <p>15 A. It is -- it is the primary U.S.-based</p> <p>16 professional association and conference organizing body</p> <p>17 in the field.</p> <p>18 Q. (BY MR. ALLEN) And you consider yourself a</p> <p>19 music theorist, right?</p> <p>20 A. At times. I certainly --</p> <p>21 Q. How about --</p> <p>22 A. -- teach in the music theory departments.</p> <p>23 Q. Okay. Do you teach classes in music theory?</p> <p>24 A. I teach classes in music theory.</p> <p>25 Q. Did your -- do your publications -- your</p>

<p style="text-align: right;">65</p> <p>1 reaction on Facebook? This is the next email in the</p> <p>2 chain.</p> <p>3 A. I don't -- I don't recall it, per se. But</p> <p>4 it's -- it's here in the email thread. Yes, I believe is</p> <p>5 it.</p> <p>6 Q. And do you have any knowledge of Facebook --</p> <p>7 the social media platform Facebook serving any role in</p> <p>8 the editorial process of journals at the University of</p> <p>9 North Texas Press?</p> <p>10 A. I know of no such practice.</p> <p>11 Q. Is Facebook a particularly scholarly forum?</p> <p>12 A. It is not.</p> <p>13 Q. And here's the second email from you, I</p> <p>14 believe, a little bit later in the evening at 8:32.</p> <p>15 "Please feel free to forward this message to anyone you</p> <p>16 think would be appropriate." Right?</p> <p>17 A. Correct.</p> <p>18 Q. So is it fair to say that you were bringing</p> <p>19 your colleagues -- to your colleagues attention this --</p> <p>20 what seemed to be a rapidly developing controversy?</p> <p>21 MS. QUIMBY: Objection; form.</p> <p>22 A. Yes. A rapidly developing potential for</p> <p>23 controversy.</p> <p>24 Q. (BY MR. ALLEN) Okay. Did it develop into a</p> <p>25 full-blown controversy?</p>	<p style="text-align: right;">67</p> <p>1 ruined before it properly began. I have a family to take</p> <p>2 care of now. I'm also confused about what exactly people</p> <p>3 want."</p> <p>4 Did I read that right?</p> <p>5 A. Correct.</p> <p>6 Q. How did you understand what Mr. Walls was</p> <p>7 particularly afraid of at this time?</p> <p>8 MS. QUIMBY: Objection; form.</p> <p>9 A. With the caveat that, you know, I don't have</p> <p>10 omniscient access to the internal --</p> <p>11 Q. (BY MR. ALLEN) Sure.</p> <p>12 A. -- cognition of others, I believe that Levi, in</p> <p>13 his position as student editor or assistant editor or</p> <p>14 editor of the journal, was worried about being --</p> <p>15 being -- about his reputation being jeopardized by</p> <p>16 association with the -- the controversy in regards to the</p> <p>17 journal.</p> <p>18 Q. And have you and he talked about that</p> <p>19 subsequently as his dissertation advisor?</p> <p>20 A. I don't believe so.</p> <p>21 Q. In your role as his dissertation advisor have</p> <p>22 you witnessed any harm that has come to his career</p> <p>23 because he participated in the <i>Journal of Schenkerian</i></p> <p>24 <i>Studies</i>?</p> <p>25 MS. QUIMBY: Objection.</p>
<p style="text-align: right;">66</p> <p>1 MS. QUIMBY: Objection; form.</p> <p>2 A. I think that most people would agree that it</p> <p>3 developed into -- into a point of contention, yes.</p> <p>4 Q. (BY MR. ALLEN) Thank you. So here's an email</p> <p>5 on July 25 at about 9:00, 8:55 p.m., by Levi Walls. Do</p> <p>6 you see that email in Exhibit 5?</p> <p>7 A. Yes.</p> <p>8 Q. And this is a student who would become your</p> <p>9 graduate student or at least in your role as a</p> <p>10 dissertation advisor. Can I ask you to read that email</p> <p>11 carefully, please?</p> <p>12 A. Okay. I'm finished reading.</p> <p>13 Q. Sure. I just have a question in the first</p> <p>14 sentence. Well, in the second sentence actually. He</p> <p>15 says, "I just heard about this." Referring to what you</p> <p>16 and Ellen Bakulina have identified. Is that your</p> <p>17 understanding of the email?</p> <p>18 A. Correct.</p> <p>19 Q. Would you have received this email at the time?</p> <p>20 A. I believe I did receive this, yes.</p> <p>21 Q. I only ask because, unlike some of the other</p> <p>22 emails, it doesn't seem to have the full received line on</p> <p>23 it.</p> <p>24 He then goes on, Mr. Walls, to say, "It's very</p> <p>25 worrying, especially as I don't want my career to be</p>	<p style="text-align: right;">68</p> <p>1 A. Not to my knowledge.</p> <p>2 Q. (BY MR. ALLEN) And did you understand this</p> <p>3 email to be expressing his fear of some sort of, quote,</p> <p>4 power differential between him and Professor Timothy</p> <p>5 Jackson?</p> <p>6 MS. QUIMBY: Objection; form.</p> <p>7 A. Power differential? I mean, there's always a</p> <p>8 power differential between students and professors.</p> <p>9 That's understood.</p> <p>10 Q. (BY MR. ALLEN) Sure. Do you -- do you</p> <p>11 understand him to be expressing in this email, especially</p> <p>12 did you understand at the time -- let me strike that</p> <p>13 question, ask this.</p> <p>14 Did you understand at the time that Mr. Levi</p> <p>15 Walls was objecting to a so-called power differential</p> <p>16 between him and Professor Jackson in this email?</p> <p>17 MS. QUIMBY: Objection; form.</p> <p>18 A. In this email I don't recall -- I -- I don't</p> <p>19 believe that he was expressing sentiments related to a</p> <p>20 power differential, no.</p> <p>21 Q. (BY MR. ALLEN) Picking up on what you said</p> <p>22 about the inherent difference between a dissertation</p> <p>23 advisor and the student, the graduate student, that</p> <p>24 there's an inherent power differential, that so-called</p> <p>25 power differential exists between you and Mr. Walls now,</p>

69

1 right?

2 A. In any student-teacher relationship, a power
3 differential exists.

4 Q. Sure. Is it your experience of Professor
5 Walls -- excuse me. Strike that, please.

6 Is it your experience of Mr. Walls that this
7 power differential prevents him from exercising his own
8 agency in your relationship to him?

9 MS. QUIMBY: Objection; form.

10 A. I mean, strictly speaking -- strictly speaking,
11 no. But teachers are -- you know, teachers are
12 considered -- are considered influential authorities on
13 topics. Students often feel pressure to take the advice
14 or take the recommendations of their professors.

15 Q. (BY MR. ALLEN) I'm talking about your direct
16 experience of Mr. Walls. In your experience with him as
17 his dissertation advisor, do you feel that he's reluctant
18 to speak his mind to you?

19 A. Not more than any other students. I -- you
20 know, students choose their words carefully around their
21 advisors if they're -- if they are smart. As they would
22 with any authorities in a supervisory capacity over them.

23 Q. And when you were a graduate student at Yale,
24 did this power differential affect you in your
25 relationship with your dissertation advisor?

70

1 MS. QUIMBY: Objection; form.

2 A. Of course. This power differential, like I
3 said, is in every student-teacher relationship.

4 Q. (BY MR. ALLEN) Would you state for the record
5 whether you believe that, quote, power differential
6 affected your ability to think independently in your own
7 dissertation

8 MS. QUIMBY: Objection; form.

9 A. I don't believe that it affected my ability to
10 think independently. But, of course, I received advice
11 and cautions that I would not have known to be cognizant
12 of from the dissertation advisor who I had who was in a
13 position of greater power over me in that relationship.

14 Q. (BY MR. ALLEN) Is it fair to say that's
15 inherent in the mentor/mentee relationship?

16 A. That is inherent to the mentor/mentee
17 relationship.

18 Q. So your answer is yes?

19 A. Yes.

20 Q. Thank you. And just back to Mr. Walls, you
21 don't -- you don't have any reason to think that he's so
22 weak that he has no independent will as your dissertation
23 advisee, do you?

24 A. I have no reason to believe such a thing.

25 Q. Did you ever witness him to be bereft of an

71

1 independent will when he worked with [audio cut out]?

2 THE REPORTER: You cut out at the end.

3 MR. ALLEN: Let me rephrase.

4 Q. (BY MR. ALLEN) Did you have any reason to
5 believe, at the time these emails were being sent back
6 and forth, that Mr. Walls was bereft of his independent
7 will in working with Professor Jackson?

8 MS. QUIMBY: Objection; form.

9 A. I have no knowledge of the dynamics of -- of
10 Professor Jackson's advisory -- dissertation advisory
11 capacity, dissertation relationship -- dissertation
12 advisory relationship with Levi Walls.

13 Q. (BY MR. ALLEN) In these emails that were
14 exchanged back and forth in which Mr. Walls took part,
15 did you have reason to believe that he had been bereft of
16 his own independent will in his work on the *Journal of*
17 *Schenkerian Studies*?

18 MS. QUIMBY: Objection; form.

19 A. I do not believe that he was bereft of his own
20 independent will.

21 Q. (BY MR. ALLEN) Thank you. And just to follow
22 up on your relationship with Mr. Walls, how close would
23 you describe your relationship with mentee and advisee of
24 Mr. Walls at this time?

25 A. Somewhat close. We correspond maybe once a

72

1 month, once every two months.

2 Q. I assume you have a residence somewhere in the
3 -- in the Denton area near the University of North Texas,
4 correct?

5 A. At the moment, no.

6 Q. While you were teaching at the University of
7 North Texas, do you live in the Dallas area?

8 A. While teaching and -- so not -- meaning not
9 this year, prior to this year --

10 Q. Yes.

11 A. -- and after this year, yes, I have had a
12 residence in -- around Dallas.

13 Q. Have you had Mr. Walls over to your home?

14 A. Nope.

15 Q. Have you ever visited Mr. Walls at his home?

16 A. Nope.

17 Q. Do you primarily meet in your office at UNT?

18 A. Primarily, yes.

19 Q. Is Mr. Walls in residence at the -- in Dallas?

20 A. Currently, no.

21 MS. QUIMBY: Object to form.

22 Q. (BY MR. ALLEN) Where is he now?

23 A. Mr. Walls is in residence in California while
24 writing his dissertation.

25 Q. And do you know when he left for California?

ANDREW JAY CHUNG - 10/15/2024

<p>1 _____</p> <p>2 _____</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 I, ANDREW JAY CHUNG, have read the foregoing</p> <p>7 deposition and hereby affix my signature that same is</p> <p>8 true and correct, except as noted above.</p> <p>9 _____</p> <p>10 ANDREW JAY CHUNG</p> <p>11 _____</p> <p>12 STATE OF _____)</p> <p>13 COUNTY OF _____)</p> <p>14 Before me, _____, on this day</p> <p>15 personally appeared ANDREW JAY CHUNG, known to me (or</p> <p>16 proved to me under oath or through _____) (description of identity</p> <p>17 card or other document)) to be the person whose name is</p> <p>18 subscribed to the foregoing instrument and acknowledged</p> <p>19 to me that they executed the same for the purposes and</p> <p>20 consideration therein expressed.</p> <p>21 Given under my hand and seal of office this</p> <p>22 _____ day of _____, _____.</p> <p>23 _____</p> <p>24 NOTARY PUBLIC IN AND FOR</p> <p>25 THE STATE OF _____</p> <p>COMMISSION EXPIRES: _____</p>	<p>151</p> <p>1 That the amount of time used by each party at</p> <p>2 the deposition is as follows:</p> <p>3 MR. MICHAEL THAD ALLEN: 3 Hour(s), 10 Minute(s)</p> <p>4 _____</p> <p>5 That pursuant to information given to the</p> <p>6 Deposition officer at the time said testimony was taken,</p> <p>7 the following includes counsel for all parties of record:</p> <p>8 FOR THE PLAINTIFF:</p> <p>9 MR. MICHAEL THAD ALLEN</p> <p>10 Allen Harris, PLLC</p> <p>11 PO Box 404</p> <p>12 Quaker Hill, Connecticut 06375</p> <p>13 Office: 860-499-3399</p> <p>14 Fax: 860-481-7899</p> <p>15 Email: mallen@allenharrisllaw.com</p> <p>16 _____</p> <p>17 FOR THE DEFENDANT:</p> <p>18 MS. MARY QUIMBY</p> <p>19 Assistant Attorney General</p> <p>20 General Litigation Division</p> <p>21 P.O. Box 12548</p> <p>22 Austin, Texas 78711-2548</p> <p>23 Office: 512-463-2100</p> <p>24 Email: mary.quimby@oag.texas.gov</p> <p>25 _____</p> <p>That \$_____ is the deposition officer's</p> <p>charges to <u>Mr. Michael Thad Allen, Attorney for</u></p> <p><u>Plaintiff</u>, for preparing the original deposition</p> <p>transcript and any copies of exhibits;</p> <p>I further certify that I am neither counsel</p> <p>for, related to, nor employed by any of the parties or</p> <p>attorneys in the action in which this proceeding was</p>
<p>150</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF TEXAS</p> <p>3 SHERMAN DIVISION</p> <p>4 TIMOTHY JACKSON, X</p> <p>5 Plaintiff, X</p> <p>6 VS. X CASE ACTION</p> <p>7 X NO.: 4:21-cv-00033-ALM</p> <p>8 LAURA WRIGHT, ET AL., X</p> <p>9 Defendants. X</p> <p>10 _____</p> <p>11 REPORTER'S CERTIFICATION</p> <p>12 DEPOSITION OF ANDREW JAY CHUNG</p> <p>13 October 15, 2024</p> <p>14 (Reported Remotely)</p> <p>15 _____</p> <p>16 I, Jennifer L. Sanders, Certified Shorthand</p> <p>17 Reporter in and for the State of Texas, hereby certify to</p> <p>18 the following:</p> <p>19 That the witness, ANDREW JAY CHUNG, was duly</p> <p>20 sworn by the officer and that the transcript of the oral</p> <p>21 deposition is a true record of the testimony given by the</p> <p>22 witness;</p> <p>23 That the deposition transcript was submitted on</p> <p>24 _____ to <u>Ms. Mary Quimby</u>, attorney for</p> <p>25 ANDREW JAY CHUNG, for examination, signature and return</p> <p>to me by _____;</p>	<p>152</p> <p>1 taken, and further that I am not financially or otherwise</p> <p>2 interested in the outcome of the action.</p> <p>3 Certified to by me this _____ day of</p> <p>4 _____, _____.</p> <p>5 _____</p> <p>6 _____</p> <p>7 JENNIFER L. SANDERS, CSR No. 5091</p> <p>8 Expiration Date: 10/31/26</p> <p>9 JULIA WHALEY & ASSOCIATES</p> <p>10 2012 Vista Crest Drive</p> <p>11 Carrollton, Texas 75007</p> <p>12 Firm Registration No. 436</p> <p>13 214-668-5578 (Office)</p> <p>14 214-236-6666 (Fax)</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>

Jennifer Cowley 09/26/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4
5 TIMOTHY JACKSON, *
6 *
7 Plaintiff, *
8 *
9 VS. * CASE NO. 4:21-CV-00033-ALM
10 *
11 LAURA WRIGHT, ET AL., *
12 *
13 Defendants. *

14
15
16
17 ORAL AND VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
18 JENNIFER COWLEY
19 SEPTEMBER 26, 2024

20
21 ORAL AND VIDEOTAPED VIDEOCONFERENCE
22 DEPOSITION OF JENNIFER COWLEY, produced at the instance
23 of the Plaintiff, and duly sworn, was taken in the
24 above-styled and numbered cause on the 26th day of
25 September, 2024, from 9:04 a.m. to 2:58 p.m., before
Carla A. Sims, AAS, CSR, RPR, in and for the State of
Texas, reported by method of machine shorthand, via Zoom
videoconference, pursuant to the Federal Texas Rules of
Civil Procedure and the provisions stated on the record
or attached hereto.

Jennifer Cowley 09/26/2024

2

1 A P P E A R A N C E S
2 ALL PARTIES AND WITNESS APPEARED VIA
3 ZOOM VIDEOCONFERENCE
4 COUNSEL FOR THE PLAINTIFF:
5 Mr. Michael Thad Allen
6 ALLEN LAW, LLC
7 P.O. Box 404
8 Quaker Hill, Connecticut 06375
9 860/772-4738 (tel)
10 m.allen@allen-lawfirm.com
11
12 COUNSEL FOR THE DEFENDANTS and JENNIFER COWLEY:
13 Ms. Mary Quimby
14 TEXAS ASSISTANT ATTORNEY GENERAL
15 P.O. Box 12548
16 Capitol Station
17 Austin, Texas 78711
18 mary.quimby@oag.texas.gov
19
20 COUNSEL FOR THE UNIVERSITY OF NORTH TEXAS:
21 Mr. Renaldo L. Stowers
22 DEPUTY GENERAL COUNSEL, UNIVERSITY OF NORTH TEXAS
23 115 Union Circle No. 310907
24 Denton, Texas 76203
25 940/565-2717 (tel)
renaldo.stowers@untssystem.edu
COUNSEL FOR THE UNIVERSITY OF TEXAS AT ARLINGTON
Mr. Shelby Boseman
CHIEF LEGAL OFFICER, THE UNIVERSITY OF TEXAS AT
ARLINGTON
701 South Nedderman Drive
Arlington, Texas 76019
sboseman@uta.edu
ALSO PRESENT:
VIDEOGRAPHER:
Mr. Jason Warner
Legal Video Group
lvj.dallas@gmail.com
214-598-5229

Jennifer Cowley 09/26/2024

3

1 I N D E X
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Jennifer Cowley 09/26/2024

4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 A. It could be professional if their concerns are
 2 related to the nature in which the publication was
 3 produced.
 4 Q. (By Mr. Allen) You called for Professor Jackson
 5 and the -- well, let me strike that.
 6 You called for the Journal of Schenkerian
 7 Studies to be investigated, right?
 8 A. I formed an ad hoc review panel to review the
 9 concerns raised by the Society for Music Theory.
 10 Q. So you were investigating the Society for Music
 11 Theory?
 12 MS. QUIMBY: Objection, form.
 13 A. No. To clarify, the Society for Music Theory
 14 raised concerns about the production process for Volume
 15 12 of the Journal of Schenkerian Studies. I formed an ad
 16 hoc panel to review the concerns that were raised and
 17 determine and make recommendations.
 18 Q. (By Mr. Allen) And your understanding of their
 19 concerns were only that it was produced in an
 20 unprofessional manner?
 21 MS. QUIMBY: Objection, form.
 22 A. That was the charge that I gave to the
 23 committee.
 24 Q. (By Mr. Allen) I'm not asking that. I said the
 25 Society for Music Theory, your understanding of their

1 concerns were that -- were solely that the journal was
 2 not produced in a professional manner?
 3 A. They had broader concerns. The concerns that I
 4 chose to charge the ad hoc committee with were
 5 exclusively related to how the journal was produced.
 6 Q. What were their broader concerns, President
 7 Cowley?
 8 A. I would have to go back and review their
 9 specific letter that they submitted to the university.
 10 Q. As you sit here today, you can't remember
 11 their, quote, "broader concerns," closed quote, as you
 12 just characterized them?
 13 A. My recollection was they raised concerns
 14 specific to the journal's publication process and that
 15 there were concerns regarding some of the journal
 16 articles.
 17 Q. What were their concerns concerning some of the
 18 journal articles?
 19 A. Again I would have to go back and look at that
 20 specific letter that was submitted.
 21 Q. As you sit here today, you can't remember what
 22 their broader concerns are or were? That's your
 23 testimony today?
 24 MS. QUIMBY: Objection.
 25 A. Correct.

1 Q. (By Mr. Allen) I'm sorry. Could you state your
 2 answer? It was just spoken over just by accident. What
 3 was your answer?
 4 A. Correct.
 5 Q. Thank you. You wanted the so-called ad hoc
 6 panel to investigate the Journal of Schenkerian Studies,
 7 correct?
 8 A. I requested that the ad hoc panel review the
 9 production of Volume 12 of the Journal of Schenkerian
 10 Studies.
 11 Q. And you specifically instructed them to do so
 12 objectively, right?
 13 A. You would have to refer to the specific charge
 14 that I gave to the committee.
 15 Q. As you sit here today, you can't remember
 16 instructing them to conduct an objective investigation?
 17 A. I would want to look at the specific charge.
 18 But the general intention was that they would conduct a
 19 review of the production process, focusing on the process
 20 and procedures that were used to produce the journal.
 21 Q. Did you -- so that again wasn't my question.
 22 And this will take a lot less time if you would answer my
 23 question instead of answering the question that you
 24 apparently want to answer.
 25 I asked about objectivity; do you understand

1 where it's talking about the objectivity of the
 2 investigation. And my question is you don't remember
 3 instructing them to give an -- to undertake an objective
 4 investigation?
 5 MS. QUIMBY: Objection, form.
 6 A. Again I would want to review the specific
 7 charge that I gave to the ad hoc panel to determine
 8 whether I used the word objective.
 9 Q. (By Mr. Allen) As a provost instructing a
 10 faculty panel to undertake any investigation, were you
 11 indifferent to whether they did it objectively or not?
 12 MS. QUIMBY: Objection, form.
 13 A. The expectation is that they would undertake a
 14 reasonable review of the matter and draw reasonable
 15 conclusions.
 16 Q. (By Mr. Allen) As you used the word, quote,
 17 "reasonable," is that the same as objective in your view?
 18 A. You haven't defined the word objective.
 19 Q. Well, that's what I'm trying to ask you about.
 20 What do you understand by an objective investigation,
 21 President Cowley?
 22 MS. QUIMBY: Objection, form.
 23 A. An objective investigation would review
 24 relevant materials and draw reasonable conclusions based
 25 on the information that they have gathered in that review

1 for the Journal of Schenkerian Studies than there are for
 2 Theoria?
 3 MS. QUIMBY: Objection, form.
 4 A. Different journals will choose different forms
 5 of publication whether they're editorial reviewed or peer
 6 reviewed and have, you know, a breadth of ways of
 7 communicating. Should they all do that in a professional
 8 way? Yes.
 9 Q. (By Mr. Allen) Should they be subjected to the
 10 same standards by the University of North Texas press?
 11 MS. QUIMBY: Objection, form.
 12 A. What do you mean by standards?
 13 Q. (By Mr. Allen) Well, I don't know. You went in
 14 and, you know, investigated one journal but not the
 15 other. That's clear, right? As you just said, you just
 16 testified to that.
 17 A. The reason we investigated the Journal of
 18 Schenkerian Studies is because the Society of Music
 19 Theory raised explicit concerns regarding the production
 20 of Volume 12 of the Journal of Schenkerian Studies. If
 21 any professional society wrote to the university
 22 expressing concerns over a publication, then it likewise
 23 would have received an investigation.
 24 MR. ALLEN: I'm going to move to strike
 25 that answer as completely nonresponsive.

1 Q. (By Mr. Allen) If you could focus on the
 2 question I'm asking, it would go a lot faster. I know
 3 you had the Journal of Schenkerian Studies investigated,
 4 and you didn't have the Journal of Theoria investigated.
 5 We just have already established that. What I'm asking
 6 is there was an outcome by the ad hoc panel about the
 7 Journal of Schenkerian Studies, right?
 8 A. The outcome was recommendations for how the
 9 Journal of Schenkerian Studies could improve.
 10 Q. Okay. And should those same standards of
 11 publication be applied to all journals in the College of
 12 Music?
 13 MS. QUIMBY: Objection, form.
 14 A. I can't speak to other journals in the College
 15 of Music because I'm not familiar with what standards or
 16 approach they use.
 17 Q. (By Mr. Allen) Would it be okay under your
 18 leadership as provost for there to be double standards?
 19 One standard for the Theoria and one standard for the
 20 Journal of Schenkerian Studies?
 21 MS. QUIMBY: Objection, form.
 22 A. There are different forms of publication. I
 23 have no knowledge of whether or not these other journals
 24 that you speak of have a peer review practice or other
 25 practices.

1 Q. (By Mr. Allen) So that was never of concern to
 2 you that there might be double standards in the College
 3 of Music?
 4 MS. QUIMBY: Objection, form.
 5 A. My concern was specific to the Journal of
 6 Schenkerian Studies and the concerns raised by the
 7 Society of Music Theory.
 8 Q. (By Mr. Allen) And, you know, while you might
 9 guess by the title Theoria that Theoria is a journal of
 10 music theory, right?
 11 A. But is --
 12 Q. It's sort of in the title.
 13 A. But music theory did not raise concerns about
 14 Theoria.
 15 Q. Right. You said that, I think, about six
 16 times. My question is very different though. Should
 17 both journals of music theory be abiding by the same
 18 standards that are imposed by the University of North
 19 Texas?
 20 MS. QUIMBY: Objection, form.
 21 A. I don't know what standards Theoria uses, so I
 22 can't speak to that with more specificity.
 23 Q. (By Mr. Allen) And you remain completely
 24 uncurious about it too, don't you?
 25 MS. QUIMBY: Objection, form.

1 A. Mr. Allen, I don't work for the University of
 2 North Texas anymore. My concerns at the present day are
 3 focused on my own institution that I work at today.
 4 Q. (By Mr. Allen) And it wouldn't bother you as
 5 provost that Theoria went along its merry way doing the
 6 same things that the Journal for Schenkerian Studies had
 7 done so long as the Society for Music Theory never
 8 complained? That's your testimony today?
 9 MS. QUIMBY: Objection, form.
 10 A. Each of our faculty members is expected to
 11 behave in professional ways and uphold standards of their
 12 disciplines. I can't speak to who the person is that's
 13 responsible for Theoria or for anything about that
 14 journal.
 15 Q. (By Mr. Allen) Are you aware that Theoria
 16 published articles without per review?
 17 A. I'm not. As I have said, I have no knowledge
 18 of Theoria other than it is a journal.
 19 Q. So if Theoria is publishing articles without
 20 peer review, is that something that would have been a
 21 concern to you as the provost if you had known?
 22 MS. QUIMBY: Objection, form.
 23 A. Not necessarily. If they were producing
 24 another form of review such as editorial review and doing
 25 that in a professional way, that's not at issue.

1 Q. But you can't provide an example yourself in
2 your experience as provost, right?

3 A. Not off the top of my head.

4 Q. Can you provide one in your experience as the
5 President of the University of Texas at Arlington?

6 MS. QUIMBY: Objection, form.

7 A. Not off the top of my head.

8 Q. (By Mr. Allen) Why did you choose panel members
9 from outside the College of Music?

10 A. I purposely chose panel members outside of the
11 College of Music because the content of the journal --
12 journal publications was irrelevant. It was about how
13 the conceptualization and production of the volume
14 occurred.

15 And therefore selecting committee members that
16 were outside of the College of Music, they brought
17 different perspectives and different experiences relative
18 to production of journals and would not be knowledgeable
19 particularly about Schenkerian Studies.

20 Q. Was it the content being Schenkerian Studies
21 that you thought was irrelevant to the panel's
22 investigation?

23 MS. QUIMBY: Objection, form.

24 A. The charge to the committee was not based on
25 content. Selecting committee members from outside of the

1 college meant that there was some arm's length distance,
2 and it was unlikely that faculty members and other
3 disciplines would have specific knowledge of the content
4 areas being discussed in the journal.

5 Q. (By Mr. Allen) Did you ever consider getting a
6 music theorist from outside the University of North Texas
7 to advise the panel?

8 A. I did not.

9 Q. And would you answer the same if I said to
10 participate in the panel? You never thought of including
11 an outside music theorist to participate in the ad hoc
12 panel, right?

13 A. I considered whether people involved in music
14 should or should not be involved and made the decision
15 that ultimately I felt it was more appropriate to exclude
16 people from the College of Music or music generally.

17 Q. And is that -- well, strike that and move on.

18 You also said, The panel members who are
19 outside the College of Music will examine objectively the
20 process followed in the contention and production of
21 Volume 12 of the Journal of Schenkerian Studies.

22 Did I read that correctly?

23 A. Correct.

24 Q. Are you able to explain now what you meant by
25 objectively?

1 A. My expectation is that they would collect
2 evidence and conduct interviews that would allow them to
3 draw reasonable conclusions as it relates to the
4 conception and production of this volume.

5 Q. Okay. Would that meaning of objectively, as
6 you use it in this statement, would it qualify as
7 objectively doing their business correctly to ignore
8 evidence that key witnesses were lying?

9 MS. QUIMBY: Objection, form.

10 Q. (By Mr. Allen) Is that objective?

11 A. You would have to provide specific evidence
12 that that was the case.

13 Q. So you can't say, as you sit here today,
14 whether the definition of objective investigation, as you
15 set forth in this statement, would basically condone
16 ignoring a witness -- excuse me -- evidence that a
17 witness was lying? Is that your testimony?

18 MS. QUIMBY: Objection, form.

19 A. Your statement was unclear.

20 Q. (By Mr. Allen) Okay.

21 A. It was jumbled.

22 Q. Yeah. No. You're right. Let me strike that.
23 Are you able to testify today -- let me strike
24 that again.

25 Is it your testimony today that whatever you

1 meant by objectively set forth in this email did not
2 encompass a requirement that the ad hoc panel be
3 attentive to the fact that witnesses were lying to them?

4 MS. QUIMBY: Objection, form.

5 A. Participants in the process of being
6 interviewed would be expected to share information that
7 they believe to be truthful, and it would be up to the
8 panel to evaluate the information that they received.

9 Q. (By Mr. Allen) So evidence of truth or untruth
10 would be relevant to an objective inquiry, right?

11 A. Maybe. Depending on the context.

12 Q. It would be important to an objective inquiry
13 not to exclude exculpatory evidence, right?

14 MS. QUIMBY: Objection, form.

15 A. I can't speak to that. That's context
16 dependent.

17 Q. (By Mr. Allen) What -- in what context for the
18 investigation of activities at the University of North
19 Texas would it be appropriate to ignore exculpatory
20 evidence?

21 A. I'm not suggesting it would be.

22 MS. QUIMBY: Objection, form.

23 A. We're talking specifically about this
24 investigation and any --

25 Q. (By Mr. Allen) No. That's not true. Wait. I

1 just want to cut you off. I asked you a specific
2 question. Can you name a context in which it would be
3 relevant to ignore exculpatory context in an
4 investigation at the University of North Texas?

5 You supply the context. Enlighten us what
6 context would be appropriate in an objective
7 investigation under your responsibility as provost to
8 ignore exculpatory information?

9 MS. QUIMBY: Objection, form.

10 A. This is your interview. If you want to provide
11 further context, you're welcome to. Otherwise, my answer
12 is no.

13 Q. (By Mr. Allen) Did you expect the ad hoc panel
14 to ignore exculpatory evidence?

15 A. My expectation is that the panel would review
16 evidence that was presented and make determinations that
17 would influence their recommendations.

18 Q. Does this mean you did or did not expect them
19 to ignore exculpatory evidence?

20 MS. QUIMBY: Objection, form.

21 A. The panel was charged with reviewing evidence
22 and determining that it's most relevant to support their
23 recommendations -- to support the formation of
24 recommendations.

25 Q. (By Mr. Allen) Now, you said that the

1 Q. (By Mr. Allen) Was the so-called ad hoc panel
2 following any established process for investigation
3 established by the University of North Texas?

4 A. There are specific -- there are specific
5 processes for certain types of policy violations.
6 However, in this case, at the beginning of the process,
7 it was unclear whether there were or were not any policy
8 violations.

9 Therefore, there was not an established
10 procedure for which one would follow. Hence, I
11 determined the best path forward was to form an ad hoc
12 committee to review this matter.

13 Q. So the very name ad hoc kind of indicates that
14 there was no policy being applied, right?

15 A. I wouldn't draw that conclusion.

16 MS. QUIMBY: Objection.

17 A. But an ad hoc panel or committee are, from time
18 to time, organized by the provost's office or other
19 offices to review a matter that doesn't clearly fall
20 within a specific policy or procedure.

21 Q. (By Mr. Allen) Was there ever a rules violation
22 found by the ad hoc panel?

23 A. The panel did not find that there was a
24 specific policy violation.

25 Q. Did the ad hoc panel find that Timothy Jackson

1 University of North Texas was, quote, "not investigating
2 Timothy Jackson," closed quote, right?

3 A. The charge of the committee was to review the
4 conception and production of Volume 12 of the Journal of
5 Schenkerian Studies. This professor was involved in the
6 journal and so would be part of the review process. But
7 Dr. Jackson himself was not -- the charge was not about
8 Dr. Jackson. It was about the journal.

9 Q. And you've said it's not -- you're not
10 investigating the journal, right? You're just
11 investigating Volume 12. Was that your testimony?

12 A. The conception and production of Volume 12.

13 Q. What policy or rules of the University of North
14 Texas were being followed when this investigation was
15 ordered?

16 MS. QUIMBY: Objection, form.

17 A. Part of this review was to determine whether or
18 not there could have been violations of university
19 policy. University policies are generally fairly broad,
20 and they are not policies specific to journals themselves
21 but could fall under other policies.

22 And so the charge of the ad hoc committee was
23 to make a determination around whether or not there were
24 any issues related to the conception and production of
25 Volume 12 of the Journal of Schenkerian Studies.

1 violated any rules of the university?

2 A. As I mentioned, their charge was not to review
3 Dr. Jackson specifically but to review the production of
4 Volume 12.

5 Q. Can you answer my question, please?

6 A. Can you repeat your question?

7 MR. ALLEN: Can you read the question to
8 the witness, please, Madam Court Reporter?
9 (Requested portion read back)

10 A. Their recommendations were on how the Journal
11 of Schenkerian Studies could be improved, and they were
12 not targeted specifically at Dr. Jackson. They were
13 targeted at how the journal could be improved.

14 Q. Does this mean your answer is, no, they didn't
15 find that he violated any rules?

16 MS. QUIMBY: Objection, form.

17 A. The committee did not state that there were any
18 specific policy violations by Dr. Jackson.

19 Q. (By Mr. Allen) Okay. Thank you. Now, I
20 believe you've testified that the Ad Hoc Panel Report
21 came out on November 25th of 2020, right?

22 A. I don't recall the date, but if you say that's
23 when it is, I have no reason to believe otherwise.

24 Q. And then on September 7th, I believe, in
25 advance of that, did you send a letter to Professor

1 Jackson?

2 **A.** Do you have a copy of that letter?

3 **Q.** I'm trying to find it. Yes.

4 **MR. ALLEN:** I'm going to mark for the

5 record -- now I'm afraid to say where we are.

6 **Madam Court Reporter,** are we on Exhibit 7?

7 **COURT REPORTER:** Yes. We are on Exhibit

8 7.

9 **MR. ALLEN:** Can I mark for the record

10 Exhibit 7, a letter of September 7, 2020.

11 (Deposition Exhibit No. 7 was marked)

12 **Q.** (By Mr. Allen) And, President Cowley, bear with

13 me. I can't stand when people do this to me, but it's

14 almost inevitable. I've got to scroll through to show

15 you your signature. Okay? So I'm not trying to make you

16 cross eyed.

17 **A.** That is my signature.

18 **Q.** So now back to the top. Is it accurate to say

19 that Exhibit 7, the letter of September 7, 2020, is a

20 letter sent by you to Timothy Jackson?

21 **A.** That's correct.

22 **Q.** I'm sorry. Did you answer and I didn't hear

23 it?

24 **A.** Yes. I said that's correct.

25 **Q.** Okay. I apologize. I think it -- we had a

Jennifer Cowley 09/26/2024

158

1 little bit of a delay in the audio feed.

2 So here you tell him -- I'm just going to skip

3 down to the third paragraph -- that the university is not

4 investigating him or the journal, correct?

5 **A.** Can I read that paragraph?

6 **Q.** Oh, yeah. I'm not trying to rush you.

7 Please, if you want me to reposition it on the page or

8 whatnot, just tell me.

9 **A.** That's okay. Okay. I've read that paragraph.

10 **Q.** Okay. And you inform him in the first sentence

11 of that paragraph, The university is investigating

12 neither you nor the Journal of Schenkerian Studies,

13 correct?

14 **A.** That's what that sentence states.

15 **Q.** But then you go on to say that it is actually

16 investigating Volume 12, right?

17 **A.** Correct. That's correct.

18 **Q.** But somehow that's not investigating the

19 journal, right?

20 **A.** It's investigating a particular volume of the

21 journal, a particular publication.

22 **Q.** And you also say here -- and I'm going to take

23 this off -- The university has discretion, if not the

24 obligation, to look into these circumstances, right?

25 **A.** Correct.

159

1 **Q.** Now, you had the discretion to look into

2 Timothy Jackson's complaints that his colleagues were

3 violating his academic freedom as well, did you not?

4 **MS. QUIMBY:** Objection, form.

5 **A.** As the provost, I have the ability to look into

6 concerns that a faculty member may raise.

7 **Q.** (By Mr. Allen) And you're very concerned to put

8 an end to misinformation and mischaracterization,

9 correct, about this matter, the investigation of the

10 Journal for Schenkerian Studies?

11 **A.** Into the mischaracterization about the review

12 of Volume 12 of the Journal of Schenkerian Studies.

13 **Q.** Is this a concern about objectivity you're

14 expressing here in this final sentence? Is that a fair

15 characterization?

16 **MS. QUIMBY:** Objection, form.

17 **A.** No.

18 **Q.** (By Mr. Allen) You raised the issue of the

19 grievance that Timothy Jackson brought to your attention

20 in that letter that we looked at earlier in the

21 deposition which was dated July 31st, 2020, in this final

22 paragraph that begins on this first page, right?

23 **A.** Are you referring to his claim related to

24 academic freedom?

25 **Q.** Yes.

Jennifer Cowley 09/26/2024

160

1 **A.** Okay. Just let me read that paragraph.

2 **Q.** I'm going to represent that it goes onto the

3 next page here too, so I'll move it up just a bit.

4 There you go. I'm sorry.

5 **A.** That's okay. I reached the end of that

6 paragraph.

7 **Q.** I'm calling up the letter. And you -- your

8 statement here is that apparently your counsel, the

9 counsel of the university I assume, pointed out that he

10 could not identify the policy under which he was filing a

11 grievance. He, meaning Timothy Jackson, is that how you

12 understood that sentence?

13 **A.** Correct.

14 **Q.** Do you recall that letter referring to the

15 academic freedom policy of the university?

16 **A.** I recall a policy number, but we'd have to go

17 back and look at the letter.

18 **Q.** And you're sort of anticipating what I was

19 going to do here is -- this is the letter of July 31st,

20 2020, from the law firm Allen Law, LLC, to you, Jennifer

21 Cowley. Do you remember seeing this exhibit earlier?

22 **A.** Yes, I do.

23 **Q.** And I apologize to counsel and to you because

24 of the question we have about numbering. I'm just going

25 to refer to the letter and the record will reflect how it

169

171

1 Q. Now, do you know if this panel report ever made
2 clear to Timothy Jackson in advance that he would be
3 invited to respond?
4 MS. QUIMBY: Objection, form.
5 A. I'm not certain. I know there were some
6 communications such as the letter you showed, but I don't
7 recall specifically.
8 Q. (By Mr. Allen) Okay. If that was part of the
9 process of the investigation by the ad hoc panel, would
10 you expect them to put that in the report?
11 MS. QUIMBY: Objection, form.
12 A. I would expect that the people that they
13 interviewed as part of their review would be included or
14 referenced in the report.
15 Q. (By Mr. Allen) But that's not my question.
16 That he would have a chance to respond to the
17 investigation report. If that was going to be part of
18 the process, would you expect them to put that in the
19 report?
20 A. Their charge was to provide recommendations to
21 me on their findings.
22 Q. Yeah. They have a section that goes background
23 information and scope of review, right?
24 A. Uh-huh.
25 Q. You remember reading that, correct?

1 A. Yes, I do.
2 Q. So this was Exhibit 2 to the Ad Hoc Panel
3 Report, and this is the Executive Board of the Society of
4 Music Theory's statement, right?
5 A. Yes. That's what it appears to be.
6 Q. And the first line says, The Executive Board of
7 the Society for Music Theory condemns the antiblack
8 statements and personal ad hominem attacks on Philip
9 Ewell perpetuated in several essays included in the
10 symposium on Philip Ewell's 2019 SMT plenary paper
11 published by the Journal of Schenkerian Studies, right?
12 A. You read that correctly.
13 Q. Did you understand from that -- this is the
14 statement by the SMT which you said prompted you to
15 convene an investigation, right?
16 A. Correct.
17 Q. And you understood -- well, let me back up.
18 And you read it, I assume, carefully at the time, right?
19 A. Correct.
20 Q. Did you understand from that headline which we
21 just read, the Executive Board of the Society for Music
22 Theory condemns the antiblack statements and personal ad
23 hominem attacks on Philip Ewell.
24 You understood that as indicating their primary
25 concern was with the procedural methods followed by the

170

172

1 A. I do. I don't recall the details.
2 Q. And here it is on Page 3 to 4 of the report,
3 correct?
4 A. Okay, yes.
5 Q. Here in our review, To begin, they say we first
6 reviewed the concerns expressed about the journal's
7 editorial and review processes raised in public
8 statements raised by three different groups.
9 And they list them right here, correct?
10 A. Yes, they do.
11 Q. And you understand there were exhibits attached
12 to the Ad Hoc Panel Report that were actually those
13 concerns, those statements of concern that they just
14 referenced in those three numbered paragraphs?
15 MS. QUIMBY: Objection, form.
16 A. Yes. I was aware that those were included as
17 appendices, if you will, to the report.
18 Q. (By Mr. Allen) And here is -- I'm sorry if this
19 overlaps. You'll see these stamps at the top of the page
20 or because the document has been filed in court.
21 A. Okay.
22 Q. Just so I'm clear about that to you. And I'm
23 not arguing that those were part of the document.
24 A. Okay.
25 Q. Do you see this Exhibit 2 stamp up here?

1 journal in publishing Volume 12?
2 MS. QUIMBY: Objection, form.
3 A. That is not the conclusion that I drew.
4 Further down in the statement, it specifically --
5 Q. (By Mr. Allen) We'll get there. Don't -- I'm
6 just asking. Look, this will go a lot faster if you just
7 answer the question. In the first sentence, they're
8 primarily concerned with what they call antiblack
9 statements and personal ad hominem attacks, right?
10 A. I do not draw the conclusion that that's their
11 primary concern.
12 Q. Do you think that by putting it in much larger
13 font that the rest of the statement, that that had no
14 meaning to them?
15 MS. QUIMBY: Objection, form.
16 Q. (By Mr. Allen) Is that insignificant to you?
17 A. I cannot draw a conclusion about what the SMT
18 executive board thought.
19 Q. And you draw no conclusion from the fact that
20 they put that first in their statement?
21 A. I did not draw a conclusion from that being the
22 first statement.
23 Q. Then the second statement, the executive
24 board -- excuse me. There it is again. Sorry. No, no.
25 This is the second statement.

1 the meeting between Benjamin Brand and Timothy Jackson on
2 December 11, 2020.

3 A. So I was aware that there was a conversation
4 and there was a discussion about how editorial duties
5 might be handled moving forward.

6 Q. Do you know what -- beyond that general level,
7 do you know concretely what was the outcome? What
8 administrative action was proposed at the meeting?

9 MS. QUIMBY: Objection, form.

10 A. From reading this email, it looks like there
11 were several different potential outcomes that were
12 discussed, and so I just knew that there were discussions
13 of options.

14 Q. (By Mr. Allen) And one of the options was
15 Number 3 which was a non-option, right? Benjamin Brand
16 says, I cannot support a plan according to which you
17 would remain involved in the day-to-day operations of the
18 journal and its editorial process in particular, given
19 the panel's findings of editorial mismanagement of the
20 acronym JSS.

21 Did I read that correctly?

22 A. You did read that correctly.

23 Q. And you understood JSS is an acronym for
24 Journal of Schenkerian Studies, right?

25 A. Yes. I assume that's the acronym.

1 Q. So did you understand by that, as you sit here
2 today, that Timothy Jackson was going to be removed from
3 the JSS?

4 A. What I read from this is that there are several
5 different options that could include housing the journal
6 elsewhere, starting a new journal, finding an editor and
7 chief, that several different options were outlined. I
8 don't know what the choice was in terms of the -- at this
9 time from that meeting.

10 Q. So you find that language ambiguous: I cannot
11 support a plan according to which you would remain
12 involved in the day-to-day operations of the journal?

13 MS. QUIMBY: Objection, form.

14 A. As I read that, I hear the chair saying that
15 keeping the journal as it is and having him as the editor
16 would not be acceptable to Dr. Brand.

17 Q. (By Mr. Allen) Okay. Are you aware that the
18 Journal of Schenkerian Studies has never published again?

19 A. I was not aware of that. I was aware that
20 there was a call for editors.

21 Q. Were you aware that Dean Richmond testified in
22 open court that the journal had been, quote, "put on
23 ice," closed quote?

24 A. No. I was not aware of that.

25 Q. Well, I think I know the answer to this, but I

1 want to ask you anyway. Did you direct the University of
2 North Texas press to cease publication of the journal?

3 A. I did not.

4 Q. Okay. And this -- okay. I think that will
5 probably be the last exhibit but -- and I only have one
6 more series of questions, and it might be the last
7 question. Did you have anything to do with the committee
8 allegedly formed to reconstitute the journal at the
9 University of North Texas?

10 MS. QUIMBY: Objection, form.

11 A. I have no knowledge of a committee to
12 resubstitute the journal.

13 Q. (By Mr. Allen) Let me put it in a different way
14 just to make sure we understand what we're talking about.
15 You were aware that a committee was formed to look for a
16 new editor of some sort?

17 MS. QUIMBY: Objection, form.

18 A. I don't know that I knew it was a committee.
19 I knew there was an effort to find an editor for the
20 journal and some kind of call for nominations for
21 editors.

22 Q. (By Mr. Allen) And did you have anything to do
23 with that as provost is my question?

24 A. I was informed that this was a planned action.

25 Q. But it wasn't something your office was

1 involved in directly?

2 A. No.

3 Q. Did you have --

4 A. Once the report was issued, the actions to move
5 forward were delegated to the department.

6 Q. Okay.

7 MR. ALLEN: Okay. I think I'm going to
8 pass the witness then, Mary, and you can go ahead and --
9 I'm going to take this down too. Excuse me. Do you want
10 to take a break or --

11 MS. QUIMBY: Yeah. Can we just take five,
12 please?

13 MR. ALLEN: Absolutely.

14 VIDEOGRAPHER: Off the record, 2:53.

15 (Recess taken from 2:53 to 2:57)

16 VIDEOGRAPHER: On the record, 2:57 p.m.

17 MS. QUIMBY: Thank you. I will reserve my
18 questions for trial.

19 MR. ALLEN: Okay. President Cowley, thank
20 you so much for spending the time today sitting for
21 deposition.

22 COURT REPORTER: Ms. Quimby, do you want
23 to purchase a transcript?

24 VIDEOGRAPHER: Off the record.

25 COURT REPORTER: We are still on --

1 pages contain any changes and the reasons therefor;
 2 _____ was not requested by the deponent or a party
 3 before the completion of the deposition.
 4 That the deposition transcript was submitted on
 5 October 30, 2024, to Ms. Mary Quimby, attorney for the
 6 witness, for examination, signature, and return to me by
 7 the 2nd day of December, 2024;
 8 That the amount of time used by each party at the
 9 deposition is as follows:
 10 Mr. Michael Thad Allen.....04 HOURS:38 MINUTES
 11 Ms. Mary Quimby.....00 HOURS:00 MINUTES
 12 Mr. Renaldo L. Stowers.....00 HOURS:00 MINUTES
 13 Mr. Shelby Boseman.....00 HOURS:00 MINUTES
 14 COUNSEL FOR THE PLAINTIFF:
 15 Mr. Michael Thad Allen
 16 ALLEN LAW, LLC
 17 P.O. Box 404
 18 Quaker Hill, Connecticut 06375
 19 860/772-4738 (tel)
 20 m.allen@allen-lawfirm.com
 21 COUNSEL FOR THE DEFENDANTS and JENNIFER COWLEY:
 22 Ms. Mary Quimby
 23 TEXAS ASSISTANT ATTORNEY GENERAL
 24 P.O. Box 12548
 25 Capitol Station
 Austin, Texas 78711
 mary.quimby@oag.texas.gov
 COUNSEL FOR THE UNIVERSITY OF NORTH TEXAS:
 Mr. Renaldo L. Stowers
 DEPUTY GENERAL COUNSEL, UNIVERSITY OF NORTH TEXAS
 115 Union Circle No. 310907
 Denton, Texas 76203
 940/565-2717 (tel)
 renaldo.stowers@untsystem.edu

1 COUNSEL FOR THE UNIVERSITY OF TEXAS AT ARLINGTON
 2 Mr. Shelby Boseman
 3 CHIEF LEGAL OFFICER, THE UNIVERSITY OF TEXAS AT
 4 ARLINGTON
 5 701 South Nedderman Drive
 6 Arlington, Texas 76019
 7 sboseman@uta.edu
 8 I further certify that I am neither counsel for,
 9 related to, nor employed by any of the parties or
 10 attorneys in the action in which this proceeding was
 11 taken. Further, I am not a relative or employee of any
 12 attorney of record in this cause, nor am I financially or
 13 otherwise interested in the outcome of the action.
 14 Certified to by me this the 14th day of October,
 15 2024.
 16 _____
 17 Carla A. Sims, AAS, RPR
 18 Texas CSR No. CSR-6125
 19 Expiration Date: 04-30-26
 20 JULIA WHALEY & ASSOCIATES, INC.
 21 2012 Vista Crest Drive
 22 Carrollton, Texas 75007-1640
 23 214-668-5578/Fax 972-236-6666
 24 JulieTXCSR@gmail.com
 25 Firm registration No. 436
 Firm registration Expires 5-31-25

215
 1 FURTHER CERTIFICATION
 2 DEPOSITION OF JENNIFER COWLEY
 3 The original deposition was/was not returned to the
 4 deposition officer on the _____ day of _____,
 5 20__.
 6 If returned, the attached Changes and Signature
 7 page contains any changes and the reasons therefor;
 8 If returned, the original deposition was delivered
 9 to Mr. Michael Thad Allen, Custodial Attorney;
 10 That \$ _____ is the deposition officer's
 11 charges to the Plaintiff for preparing the original
 12 deposition transcript and any copies of exhibits;
 13
 14 Certified to by me this _____ day of _____,
 15 20__.
 16
 17
 18 _____
 19 JULIA WHALEY & ASSOCIATES, INC.
 20 2012 Vista Crest Drive
 21 Carrollton, Texas 75007-1640
 22 214-668-5578/Fax 972-236-6666
 23 JulieTXCSR@gmail.com
 24 Firm registration No. 436
 25 Firm registration Expires 5-31-25

Rachel Gain 5/19/21

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 v.) CASE NO.
7 LAURA WRIGHT, et al,) 4:21-cv-00033-ALM
8 Defendants.)
9)
10)

11 ORAL DEPOSITION OF
12 RACHEL GAIN
13 MAY 19, 2021
14 -----
15
16

17 ORAL DEPOSITION OF RACHEL GAIN, produced as a
18 witness at the instance of the Plaintiff, and duly
19 sworn, was taken in the above-styled and numbered cause
20 on May 19, 2021, from 1:06 p.m. to 2:49 p.m., before
21 Nita G. Cullen, CSR in and for the State of Texas,
22 reported by machine shorthand, at the Law Offices of
23 Cutler Smith, 12750 Merit Drive, Suite 1450, in the City
24 of Dallas, County of Dallas, State of Texas, pursuant to
25 the Federal Rules of Civil Procedure.

Rachel Gain 5/19/21

3

1 INDEX

2 PAGE

3 Appearances..... 2
4 Stipulations..... 4
5 RACHEL GAIN
6 Examination by Ms. Harris..... 4
7
8 Reporter's Certificate.....60
9

11 EXHIBITS

12 NO. DESCRIPTION PAGE

13 Exhibit 35 Notice of Taking Deposition..... 9
14 Exhibit 36 Text Messages - Vivek Virani and
Rachel Gain..... 9
15 Exhibit 37 Microsoft Teams conversation.....22
16 Exhibit 38 News from SEM: General News, Statement
of UNT Faculty on Journal of
Schenkerian Studies22
18 Exhibit 39 Twitter Messages.....51
19
20
21
22
23
24
25

Rachel Gain 5/19/21

2

1 A P P E A R A N C E S

3 FOR THE PLAINTIFF:

4 MR. MICHAEL THAD ALLEN
5 MS. SAMANTHA HARRIS
6 ALLEN LAW, LLC
7 P.O. Box 404
8 Quaker Hill, Connecticut 06375
860.772.4738
860.469.2783 Fax
m.allen@allen-lawfirm.com

9 FOR THE DEFENDANTS:

10 MR. MATT BOHUSLAV
11 ASSISTANT ATTORNEY GENERAL
12 GENERAL LITIGATION DIVISION
13 ATTORNEY GENERAL OF TEXAS
14 P.O. Box 12548, Capitol Station
Austin, Texas 78711
matthew.bohuslav@oag.texas.gov

14 AND

15 MR. RENALDO STOWERS
16 SENIOR ASSOCIATE GENERAL COUNSEL
17 UNIVERSITY OF NORTH TEXAS SYSTEM
18 OFFICE OF GENERAL COUNSEL
940.565.2717
renaldo.stowers@untsystem.edu

19 ALSO PRESENT:

20 MR. TIMOTHY JACKSON
21
22
23
24
25

Rachel Gain 5/19/21

4

1 P R O C E E D I N G S

2 RACHEL GAIN,

3 having been first duly sworn, testified as follows:

4 EXAMINATION

5 BY MS. HARRIS:

6 Q. Okay. Hi, my name is Samantha Harris. I'm one
7 of the attorneys for Dr. Jackson, along with my partner.
8 And have you ever been deposed before?

9 A. No.

10 Q. Okay. So, it's just going to be a
11 conversation, but it is part of the Court record, that's
12 why she's taking these -- you know, these notes. And
13 so, this is testimony that will be part of the case. If
14 at any time anything I'm asking you isn't clear or you
15 need me to clarify or repeat the question, just ask.

16 Your attorney may object from time to time.

17 MS. HARRIS: Are we going to stipulate,
18 you know, the same things that we have in the previous
19 depositions, that objections except as to form
20 objections will be reserved for the time of trial.

21 MR. BOHUSLAV: Yes.

22 Q. (By Ms. Harris) Okay. So, he will object, and
23 that objection will go on the record, but it doesn't
24 change your obligation to answer the question. So, when
25 he objects, it doesn't mean, you know, that you're not

1 going to answer, it just means that that objection will
 2 be noted, and the Judge can decide what to do with it.
 3 **A.** (Witness nods head affirmatively.)
 4 **Q.** So, we'll just start with some background
 5 questions. Is there anything that would prevent you
 6 from giving truthful testimony here today?
 7 **A.** No.
 8 **Q.** Are you on any medications, or do you have any
 9 medical conditions that could potentially interfere with
 10 your ability to give truthful testimony?
 11 **A.** Not that I know of, no.
 12 **Q.** Okay. So, just tell me a little bit about your
 13 background. Obviously, now, you're a graduate student
 14 at UNT, right?
 15 **A.** (Witness nods head affirmatively.)
 16 **Q.** And what, specifically, are you studying?
 17 **A.** I'm studying music theory.
 18 **Q.** Music theory. Okay. Prior to that, where did
 19 you go to college?
 20 **A.** I did my undergraduate mostly at the University
 21 of Birmingham, with one year at the University of
 22 Ottawa, and I did a master's degree in music theory at
 23 the University of Western Ontario.
 24 **Q.** Okay. Now, you said you're studying music
 25 theory here at the University of North Texas?

Rachel Gain 5/19/21

1 **A.** Yes.
 2 **Q.** What year of the program are you in?
 3 **A.** I just finished my second year.
 4 **Q.** Okay. So, you're in the theory department.
 5 Have you met Dr. Jackson before?
 6 **A.** We've been in the same room, I've smiled at him
 7 in hallways, but that's the extent of our interactions.
 8 **Q.** Okay. So, would you say your interactions with
 9 him have been pleasant or --
 10 **A.** I've had no response from him, so I wouldn't
 11 use the word "pleasant". I'd say absence, really.
 12 **Q.** Okay. When did you first learn about the
 13 controversy over Volume 12 of the -- I'm going to say
 14 the Journal of Schenkerian Studies. If I call it the
 15 JSS here on out, will that be clear?
 16 **A.** Yes.
 17 **Q.** And you know what? I see you nodded and said
 18 "yes", and that reminds me of one thing I should have
 19 said at the beginning of the deposition, is because this
 20 is all going on the record, even if it's just a "yes" or
 21 "no" answer, always say "yes" or "no", rather than just
 22 nodding, which you didn't do, you said "yes", but it
 23 made me think of it.
 24 **A.** Okay.
 25 **Q.** So, when did you first learn of the controversy

1 with Volume 12 of the JSS?
 2 **A.** It was, I think, on the Friday evening, which I
 3 believe was the 25th of July, 2020.
 4 **Q.** Okay. And how did you hear about it, first?
 5 **A.** On Twitter, people were posting their opinions
 6 on it and screen shots of the passages that they were
 7 offended by.
 8 **Q.** Okay. Have you read Volume 12 of the JSS?
 9 **A.** I've read most of it.
 10 **Q.** Most of it. Okay. Have you read Dr. Jackson's
 11 article?
 12 **A.** Yes.
 13 **Q.** Okay. And have you listened to Dr. Ewell's
 14 talk, the talk that prompted --
 15 **A.** Yes.
 16 **Q.** Okay. So, when you said people were tweeting
 17 about it, do you remember who specifically was tweeting
 18 that you noticed?
 19 **A.** Quite a lot of people. One person comes to
 20 mind that I can definitely say did. The first name's
 21 Devon. I can't remember the entirety of their surname,
 22 but it begins with "C-H". Something like Chalamu or
 23 Chalamo (Phonetic).
 24 **Q.** And is that someone who was also a student at
 25 UNT?

Rachel Gain 5/19/21

1 **A.** No.
 2 **Q.** Okay. So, these were people from outside of
 3 the university.
 4 **A.** Yes.
 5 **Q.** Do you know how they learned about the
 6 controversy?
 7 **A.** Some of them had a copy of the journal and had
 8 read it, and others had seen the journal -- the excerpts
 9 that had been sent to them.
 10 **Q.** Okay. And when did you first read Dr.
 11 Jackson's article?
 12 **A.** I read the excerpts at the time, and within the
 13 next day or two, I read the article.
 14 **Q.** Okay. All right. Terrific. So, you know, I
 15 meant to do this before we did the background, but I'm
 16 going to just -- so, I'm going to be introducing some
 17 documents throughout. They're going to be marked as
 18 exhibits.
 19 So, any document that I'm going to ask you
 20 about, I will give you a copy of to familiarize yourself
 21 with it. And the first thing I just want to give you a
 22 copy of, and I believe this will be 35, I think, because
 23 we're continuing to number the exhibits from previous
 24 depositions.
 25 This is just the Notice of Deposition that

1 correct?
2 A. Yes.
3 Q. Okay. The petitions also refer to the past
4 bigoted behaviors of UNT faculty.
5 A. Yes.
6 Q. And you've testified today that you don't have
7 any firsthand knowledge of past bigoted behaviors by UNT
8 faculty.
9 A. Yes.
10 Q. Okay. And this also referred to past racist
11 actions of Dr. Jackson, yes?
12 A. Could you show me where in the document it says
13 that?
14 Q. Sure. It's under -- it is the July 27th
15 petition that's marked Exhibit 3 at the top. Yeah.
16 That one.
17 A. Okay.
18 Q. Says, "Dr. Jackson's actions, both past and
19 present, are racist and unacceptable." So, is it fair
20 to say that you don't have firsthand knowledge of any
21 past racist actions by Dr. Jackson?
22 A. Well, seeing as I've never been in the same --
23 or I've never been in a conversation with him, that
24 would follow, yes.
25 Q. Okay. And in the July 30th version of the

1 statement, Dr. Jackson is accused of extortion, correct?
2 A. Where is this?
3 Q. It is on Kohanski 000109, No. 3 under "Calling
4 for Dr. Jackson's Dismissal. Extortion through grade
5 manipulation and threats to students' careers and
6 reputations."
7 A. It does say that.
8 Q. Okay. And is it fair to say that you have no
9 firsthand knowledge of any extortion by Dr. Jackson?
10 A. Yes. I wasn't in the country at the time.
11 Q. Okay. But you did sign your name to a
12 statement asking that Dr. Jackson be fired for all of
13 these reasons, yes?
14 A. Where does it say that he should be fired?
15 Q. "Calling for Dr. Jackson's Dismissal. Dr.
16 Jackson should be removed from the UNT faculty."
17 A. Yes. I signed a statement saying that it was
18 our opinion that he should be fired.
19 Q. Okay.
20 A. Or dismissed, in the words of the statement.
21 Q. Okay. And other than his article in the
22 journal, which you have said you've read, would it be
23 fair to say that you called for his termination with no
24 firsthand knowledge of any of the behaviors specified in
25 this petition?

1 A. Yes.
2 MS. HARRIS: Okay. Thanks. That's all.
3 THE WITNESS: Okay. Thank you.
4 MS. HARRIS: Do you have any --
5 MR. BOHUSLAV: No. We'll reserve
6 questions for time of trial.
7 (DEPOSITION ADJOURNED AT 2:49 P.M.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5)
6 Plaintiff,)
7) Case No.
8 v.)
9) 4:21-cv-00033-ALM
10 LAURA WRIGHT, et al,)
11)
12 Defendants.)
13
14
15
16
17
18
19
20
21
22
23
24
25

1 -----
2 DEPOSITION CERTIFICATE
3 RACHEL GAIN
4 MAY 19, 2021
5 -----
6 I, Nita G. Cullen, Certified Shorthand
7 Reporter in and for the State of Texas, hereby certify
8 to the following:
9 That the witness, RACHEL GAIN, was duly sworn
10 by the officer and that the transcript of the oral
11 deposition is a true record of the testimony given by the
12 witness;
13 I further certify that pursuant to FRCP Rule
14 30(f)(1) that the signature of the deponent:
15 _____ was requested by the deponent or a
16 party before the completion of the deposition and is to

Rachel Gain 5/19/21

61

1 be returned within 30 days from date of receipt of the
2 transcript. If returned, the attached Changes and
3 Signature Page contains any changes and the reasons
4 therefor;

5 X was not requested by the deponent or a
6 party before the completion of the deposition.

7 I further certify that I am neither attorney or
8 counsel for, nor related to or employed by, any of the
9 parties or attorneys to the action in which this
10 deposition was taken.

11 Further, I am not a relative or employee of any
12 attorney of record in this case, nor am I financially
13 interested in the outcome of the action.

14 Subscribed and sworn to on this 15th day of
15 June, 2021.

16
17

NITA G. CULLEN, Texas CSR #1563
Expiration Date: 08-31-2022
JULIA WHALEY & ASSOCIATES
Firm Registration No. 436
2012 Vista Crest Drive
Carrollton, Texas 75007-1640
214.668.5578

21
22
23
24
25

BENJAMIN S. GRAF, Ph.D. 09/23/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 vs.) CASE NO. 4:21-CV-00033-ALM
7 LAURA WRIGHT, et al.,)
8 Defendants.)

9 *****

10 VIDEOTAPED ORAL DEPOSITION OF
11 BENJAMIN S. GRAF, Ph.D.
12 September 23, 2024
13 *****

14
15 VIDEOTAPED ORAL DEPOSITION OF BENJAMIN S. GRAF,
16 Ph.D., produced as a witness at the instance of the
17 Plaintiff and duly sworn, was taken in the above-styled
18 and numbered cause on the 23rd day of September, 2024,
19 from 9:03 a.m. to 12:08 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported by computerized stenotype machine at
22 the University of North Texas System, 801 North Texas
23 Boulevard, Gateway Suite #308, Denton, Texas, pursuant
24 to the Federal Rules of Civil Procedure and the
25 provisions stated on the record or attached hereto.

BENJAMIN S. GRAF, Ph.D. 09/23/2024

3

1 I N D E X
2
3 PAGE
4 Appearances..... 2
5 Stipulations..... 5
6
7 BENJAMIN S. GRAF, Ph.D.
8 Direct Examination by Mr. Allen..... 6
9

10 EXHIBITS
11 NUMBER DESCRIPTION MARKED
12 Exhibit 1 Re-Notice of Taking Deposition.... 40
13 Exhibit 2 Center Review, Reporting
14 Period: FY2013 - FY2016
15 (JACKS 067377 - 067401)..... 40
16 Exhibit 3 Ad Hoc Review Panel Report
17 (Exhibit D)
18 (JACKSON000208 - 000233)..... 65
19 Exhibit 4 Material for the Committee
20 Emails
21 (UNT 002645 - UNT 002782)..... 79
22 Exhibit 5 Email, 7-24-20, Graf to Chung,
23 et al.
24 (UNT 000439).....102
25

BENJAMIN S. GRAF, Ph.D. 09/23/2024

2

1 APPEARANCES
2
3 FOR THE PLAINTIFF:
4 Mr. Michael Thad Allen
5 ALLEN LAW, LLC
6 P.O. Box 404
7 Quaker Hill, CT 06375
8 Telephone: 860.772.4738
9 Fax: 860.469.2783
10 E-mail: M.allen@allen-lawfirm.com

11
12 FOR THE DEFENDANTS:
13 Mr. Benjamin S. Walton
14 Assistant Attorney General
15 General Litigation Division
16 P.O. Box 12548, Capital Station
17 Austin, Texas 78711
18 Telephone: 512.463.2120
19 Fax: 512.320.0667
20 E-mail: Benjamin.Walton@oag.texas.gov

21 - and -

22 Renaldo Stowers
23 University of North Texas System
24 Office of General Counsel
25 801 North Texas Boulevard
Denton, Texas 76201
Telephone: 940.565.2717
Fax: 940.369.7026
E-mail: Renaldo.Stowers@untssystem.edu

26 ALSO PRESENT:

27 VIDEOGRAPHER:
28 Mr. Tony McGough
29 Legal Video Group
30 lvg.dallas@gmail.com
31 214-598-5229

BENJAMIN S. GRAF, Ph.D. 09/23/2024

4

1 Exhibit 6 Screenshot of Facebook Post from
2 Graf to Ewell, 7-25-20.....104
3 Exhibit 7 Emails Regarding Meeting With You
4 Monday Sept 14 at Noon
5 (UNT 002500 - 002505).....109
6 Exhibit 8 Emails Regarding JSS
7 (JACKS 089828 - 089832).....114
8 Exhibit 9 Statement From the MHTE Graduate
9 Students - Confidential
10 (Kohanski 000107 - 000110).....115
11 Exhibit 10 Emails Regarding Faculty
12 Statement on the Recent Issue
13 of JSS
14 (UNT 000526).....117
15
16
17
18
19
20
21
22
23
24
25

1 Journal would want to be able to read and interpret a
 2 basic Schenkerian analysis. I think that's reasonable.
 3 Q. Was there a type-setting of these graphs
 4 involved?
 5 A. Sometimes. Sometimes, yes. It depended on the
 6 article.
 7 MR. WALTON: Mr. Allen, just for purposes
 8 of the record, since we have a witness whose last name is
 9 very interesting, can you clarify that these questions
 10 you've been asking are graph, G-R-A-P-H?
 11 MR. ALLEN: Yes, sorry. And so I believe
 12 you'll also note -- and thank you. That didn't even
 13 occur to me.
 14 Q. And I certainly wasn't meaning to pun off your
 15 name, Professor Graf. But the way your name is spelled
 16 literally means, in German, "count," correct?
 17 A. Correct, rough translation. Rough translation.
 18 Q. And graph with a PH has nothing to do with
 19 that, correct?
 20 A. Correct.
 21 Q. And we've just been talking about the
 22 pictograms, if you want to call them that, for these
 23 graphs that are made in Schenkerian analysis, right?
 24 A. Yes.
 25 Q. Thank you.

1 A. Good clarification.
 2 MR. ALLEN: Thanks to Opposing Counsel
 3 for bringing that up.
 4 Q. So just back to Levi Walls, do you know what
 5 role then he started to play in the Journal going forward
 6 from this time where you announced you're stepping back?
 7 A. Yeah. His role was to take over the reins and
 8 communicate with the advisors in order to move forward
 9 with the Journal. That's the way I understood it.
 10 Q. Was there going to be a transition period where
 11 you brought him on as a kind of mentor?
 12 A. I can't remember if it was Dr. Brand or
 13 Dr. Jackson and Slottow that asked me to help, but one
 14 of those people asked me to help. I can't honestly
 15 remember if it was Dr. Brand or Dr. Jackson asked me
 16 to show Levi certain things about the Journal.
 17 Q. Based on your direct experience or
 18 conversations with Mr. Walls, did he seem enthusiastic
 19 about the new position?
 20 A. It's hard to say. It's hard to say. I'm not
 21 really sure how enthusiastic he was or not.
 22 Q. Did you have any discussions with him about
 23 taking on the new position?
 24 A. Very few, very few.
 25 Q. Well, if you can remember back to those few

1 conversations, what did he say?
 2 A. I mean, our conversations were very practical.
 3 Q. Um-hum.
 4 A. Things like what software would you use to take
 5 an article from manuscript through publication.
 6 Q. And to cut to the chase, was it focused on the
 7 craft of publishing these articles?
 8 A. It was a lot more focused on the craft of
 9 publishing the articles than it was the substance or,
 10 yeah, the craft of the practical matters.
 11 Q. At any point in this transition time --
 12 incidentally, when was it decided -- so there's a
 13 transition period. You announce you are going to
 14 withdraw from the Journal. You talked to Benjamin Brand
 15 about that in the fall of 2019, correct? And then you
 16 have a subsequent meeting -- sorry, I just realized I was
 17 relying on you nodding your head.
 18 A. Correct.
 19 Q. And then you had a subsequent conversation with
 20 Professor Jackson and Professor Slottow?
 21 A. Correct.
 22 Q. And that involved, at some point, having these
 23 very practical conversations with Levi Walls, correct?
 24 A. Those happened after.
 25 Q. And at that time when those happened, what time

1 are we talking, if you can remember? What month? What
 2 time period?
 3 A. Let's think. Probably October, beginning of
 4 October, I want to say.
 5 Q. Okay. Did Professor Walls -- excuse me. Did
 6 Mr. Walls raise any concerns about a power differential
 7 between him and Professor Jackson at that time?
 8 A. He did not raise them to me specifically,
 9 but -- he may have been concerned about it, but he didn't
 10 raise it to me.
 11 Q. Did you raise those issues with him?
 12 A. If I had any issues, I would have brought them
 13 straight to Benjamin Brand.
 14 Q. Did you?
 15 A. I want to say that I did.
 16 Q. And what did you say?
 17 A. I'm trying to remember the exact conversation.
 18 Benjamin Brand and I talked about possibly having some
 19 concerns about the editorship of the Journal being under
 20 a graduate student. And I left it to his discretion
 21 at that point because I didn't feel it was my place
 22 to comment any further on it. And it sounded like
 23 Dr. Jackson wanted Levi Walls to take over the Journal.
 24 That's the best way I can summarize it.
 25 Q. Did you ever speak in your -- I'm talking about

1 And that's by Levy -- Levi Walls, excuse me.
2 Did I say that right?
3 **A.** Yes.
4 **Q.** And he seems to also confirm that the
5 announcement was made that these papers would be
6 published in Spectrum before they were even delivered
7 to the panel.
8 That's what Ellen Bakulina described, correct?
9 **A.** Yeah, it appears to be in her email.
10 **Q.** Then do you remember the subsequent discussion,
11 which is continued by Professor Bakulina, about whether
12 to go forward with the JSS call for papers as planned?
13 **A.** I don't really recall a lot of discussion on
14 it.
15 **Q.** Okay. And so the next message is
16 December 1st, 4:53 p.m. It seems like some of them
17 either might be unusually stamped or they may be out of
18 order.
19 **A.** Okay.
20 **Q.** But I just want to call your attention to the
21 one that begins at the bottom of that page. Do you see
22 that? Ellen Bakulina to Walls, Jackson, Graf, Cubero,
23 Slottow. And this appears to be two different emails.
24 For some reason, Timothy Jackson is listed twice. Do you
25 see that? This is at the bottom of UNT 2657.

1 **A.** I see -- oh, yes, I do see that he appears
2 twice there in the "To" line.
3 **Q.** That's not important. The thing I wanted to
4 call your attention to, is that your correct email there
5 that we discussed earlier?
6 **A.** That is my correct email.
7 **Q.** Okay. So whenever that email appears in an
8 email, then you received it, correct?
9 **A.** Yes.
10 **Q.** Okay. And Timothy then responds, "All things
11 considered, JSS should go forward with the call as
12 planned."
13 Do you see that subsequent email?
14 **A.** I do.
15 **Q.** At 10:06 p.m.?
16 **A.** Yeah. This is on 2658.
17 **Q.** And he says -- I'm going to skip down to,
18 oh, geez, to the sixth line, the body of the email that
19 begins on UNT 2658. Do you see that "- and we definitely
20 should publish it" line?
21 **A.** Yes.
22 **Q.** So he says, "We definitely should publish it."
23 He then says, "More responses have promised
24 and have even been requested. Therefore, if others are
25 interested in responding, but wish to wait for the

1 published version of Ewell's talk, then they are welcome
2 to do so, and we should be open to publishing additional
3 responses to that version in a subsequent issue after the
4 upcoming one of the Journal of Schenkerian Studies.
5 Best, Tim."
6 Did I read that correctly?
7 **A.** Yes, you read that email correctly.
8 **Q.** And do you remember responding to that email?
9 **A.** I don't really remember it.
10 **Q.** The next email is from you, correct?
11 **A.** Yes.
12 **Q.** Do you believe that is not -- has not been sent
13 by you?
14 **A.** No, I think I did send that.
15 **Q.** And you say, "I agree with Tim."
16 Right?
17 **A.** Um-hum.
18 **Q.** Did you feel you couldn't say you didn't agree?
19 I mean, strike that question because of the double
20 negative.
21 Did you have any reason to volunteer that
22 information based in coercion of any kind?
23 **A.** I didn't really feel comfortable elaborating on
24 my personal viewpoint.
25 **Q.** At that time?

1 **A.** At that time, no.
2 **Q.** Well, I'm asking you to elaborate now. Is
3 there some reason you felt compelled to chime in at that
4 time that said you agree with Tim?
5 **A.** There's no particular reason either way other
6 than it seemed like this is the way Dr. Jackson wanted it
7 to happen, so I felt it was best for me to follow what he
8 wanted to do at that point.
9 **Q.** Did you feel you couldn't express dissent?
10 **A.** To an extent, yeah. I didn't really want to
11 express my dissent.
12 **Q.** Were you lying when you said you agreed with
13 Timothy Jackson?
14 **A.** No. I just didn't feel like I could fully
15 express myself.
16 **Q.** Did you feel the need to express yourself by
17 agreeing with Timothy Jackson at this time when you said
18 you were trying to withdraw as much as possible from the
19 affairs of the Journal?
20 **A.** I just had a brief, succinct response that I
21 thought was not going to interfere with the affairs of
22 the Journal from my position of trying to take a step
23 back.
24 **Q.** Let me -- one further question about emails
25 in this body of documents that were considered by the

1 University of North Texas so-called ad hoc panel.
2 If you could turn to 2697, please?
3 A. 2697.
4 Q. And I'm going to direct your attention to an
5 email at the bottom of that page.
6 A. Sure.
7 Q. This appears to be an email from you to
8 schenker@unt.edu. Or no, I guess it's from
9 schenker@unt.edu, right?
10 A. It is from the official Schenker email.
11 Q. That was going to be my next question. That
12 schenker@unt.edu, that's the official email for the
13 editor?
14 A. I'm not really sure who used that email. On
15 occasion, I used it as editor, yeah.
16 Q. And is this an email you sent?
17 A. It appears to be something that I sent, yes.
18 Q. And it looks like this is March 14th, 2020, and
19 things are wrapping up with getting the special Symposium
20 out for publication.
21 A. Yes, I was trying to collect materials from
22 some of the authors, it appears.
23 Q. Is that why there are three, 1), 2), 3), sort
24 of bullet points that you are asking for the final
25 information?

1 A. Yes.
2 Q. And you also say, Levy -- Levi -- excuse me --
3 "Levi Walls has done excellent work on this volume, and
4 the Journal will be in good hands as he takes over sole
5 editorship of the JSS."
6 Right?
7 A. Yes.
8 Q. Were you impressed with the work of Levi Walls
9 on the Journal up to this time?
10 A. I was referring to his work on the software,
11 his familiarity with the process of getting manuscripts
12 into the correct software formatting.
13 Q. And then you go on -- well, just to follow that
14 up. And that was all very good work by him, right?
15 A. The way I understood it, he did a good enough
16 job to take over the reins. And I really felt like I was
17 done at that point.
18 Q. And you also commented in this sentence
19 after that.
20 "In my view, the additional content that we
21 collected this winter following Ewell's SMT plenary makes
22 a great addition to an already remarkable publication."
23 Right?
24 A. Yes. That was a little bit of -- yes.
25 Q. Were you lying?

1 A. No.
2 MR. WALTON: Form.
3 A. I wasn't lying.
4 Q. And you -- finally, you end the email, "Cheers
5 getting this to press."
6 Right?
7 A. Yes.
8 Q. You also -- there's an email right below that.
9 It looks like you write to Barry Wiener. Am I mistaken
10 about that?
11 A. Let's see.
12 Q. On March 20th.
13 A. On March 20th, Ben Graf wrote to Wiener.
14 I don't see an email address from that, but...
15 Q. It seems to be copied and pasted into this
16 massive document that was submitted to the UNT ad hoc
17 panel. Do you remember writing and corresponding with
18 Barry Wiener?
19 A. I don't honestly remember the correspondence
20 with every author, because I was just trying to get them
21 to sign the forms. You know, my role was very minimal
22 there at the end, just to get everyone to sign their
23 forms.
24 Q. Um-hum.
25 A. Get it off to press.

1 Q. Would you say to an author that you had read
2 his piece when you didn't read it?
3 A. Possibly.
4 Q. Do you remember doing that for Barry Wiener?
5 A. I really don't remember Barry's article. I
6 could not cite specific parts of it. But a lot of times,
7 when I finished out the publication, I would say thank
8 you for your contribution or something like that.
9 Q. Do you remember telling the ad hoc panel that
10 you didn't read all of the articles?
11 A. Yes.
12 Q. Was that true?
13 A. That's true. I did not read every article
14 word-for-word.
15 Q. Was it expected that you would read the
16 article?
17 A. I don't think there was a clear expectation.
18 Q. Was there a division of labor in the Journal
19 for the Symposium?
20 A. For the Symposium? Was there a division of
21 labor? Not really.
22 Q. Do you know if Mr. Walls read all of the
23 papers?
24 A. I'm not sure.
25 Q. Do you know if Professor Jackson was relying on

121

1 CHANGES AND SIGNATURE

2 WITNESS: BENJAMIN S. GRAF, Ph.D.

3 DATE: 9-23-24

4 PAGE/LINE	CHANGE	REASON
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

122

BENJAMIN S. GRAF, Ph.D. 09/23/2024

1

2

3

4 I, BENJAMIN S. GRAF, have read the foregoing

5 deposition and hereby affix my signature that same

6 is true and correct, except as noted above.

7

8

BENJAMIN S. GRAF

9

10 THE STATE OF _____)

11 COUNTY OF _____)

12 Before me, _____, on this day

13 personally appeared BENJAMIN S. GRAF, known to me or

14 proved to me on the oath of _____ or

15 through _____ (description of

16 identity card or other document) to be the person whose

17 name is subscribed to the foregoing instrument and

18 acknowledged to me that he/she executed the same for

19 the purpose and consideration therein expressed.

20 Given under my hand and seal of office on this

21 _____ day of _____, _____.

22

23

24 NOTARY PUBLIC IN AND FOR

25 THE STATE OF _____

My Commission Expires: _____

123

1 UNITED STATES DISTRICT COURT

2 FOR THE EASTERN DISTRICT OF

3 SHERMAN DIVISION

4 TIMOTHY JACKSON,)

5)

6 Plaintiff,)

7)

8 vs.) CASE NO. 4:21-CV-00033-ALM

9)

10 LAURA WRIGHT, et al.,)

11)

12 Defendants.)

13

14 REPORTER'S CERTIFICATION OF

15 ORAL DEPOSITION OF BENJAMIN S. GRAF, Ph.D.

16 September 23, 2024

17

18 I, KIM D. CARRELL, a Certified Shorthand Reporter

19 in and for the State of Texas, hereby certify to the

20 following:

21 That the witness, BENJAMIN S. GRAF, was duly

22 sworn and that the transcript of the oral deposition is

23 a true record of the testimony given by the witness;

24 That the deposition transcript was duly submitted

25 on October 21, 2024, to Mr. Benjamin Walton, the attorney

for the witness, for examination, signature, and return to

me by November 22, 2024, (30 days);

That pursuant to the information given to the

deposition officer at the time said testimony was taken,

the following includes all partes of record and the

amount of time used by each party at the time of the

deposition;

Michael Thad Allen - 02 HRS: 37 MIN

Benjamin Walton - 00 HRS: 00 MIN

FOR THE PLAINTIFF:

Mr. Michael Thad Allen

ALLEN LAW, LLC

P.O. Box 404

Quaker Hill, CT 06375

Telephone: 860.772.4738

Fax: 860.469.2783

E-mail: M.allen@allen-lawfirm.com

FOR THE DEFENDANTS:

Mr. Benjamin S. Walton

Assistant Attorney General

General Litigation Division

P.O. Box 12548, Capital Station

Austin, Texas 78711

Telephone: 512.463.2120

Fax: 512.320.0667

E-mail: Benjamin.Walton@oag.texas.gov

- and -

Renaldo Stowers

University of North Texas System

Office of General Counsel

801 North Texas Boulevard

Denton, Texas 76201

Telephone: 940.565.2717

Fax: 940.369.7026

E-mail: Renaldo.Stowers@untsystem.edu

I further certify that I am neither counsel for,

related to, nor employed by any of the parties or

attorneys in the action in which this proceeding was

taken, and further that I am not financially or

BENJAMIN S. GRAF, Ph.D.

09/23/2024

125

1 otherwise interested in the outcome of the action.
2 Certified to by me on this 21st day of October,
3 2024.

4
5
6
7 Kim D. Carrell, CSR NO. 1184
8 Date of Expiration: 7-31-26
9 JULIA WHALEY & ASSOCIATES, INC.
10 2012 Vista Crest Drive
11 Carrollton, Texas 75007-1640
12 214-668-5578/Fax 972-236-6666
13 JulieTXCSR@gmail.com
14 Firm registration No. 436
15 Firm registration Expires 5-31-25
16
17
18
19
20
21
22
23
24
25

Frank Heidelberg 5/19/21

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 v.) CASE NO.
7 LAURA WRIGHT, et al,) 4:21-cv-00033-ALM
8 Defendants.)
9)
10)

11 ORAL DEPOSITION OF
12 FRANK HEIDLBERGER
13 MAY 19, 2021
14 -----
15
16

17 ORAL DEPOSITION OF FRANK HEIDLBERGER, produced as a
18 witness at the instance of the Plaintiff, and duly
19 sworn, was taken in the above-styled and numbered cause
20 on May 19, 2021, from 9:10 a.m. to 11:56 a.m., before
21 Nita G. Cullen, CSR in and for the State of Texas,
22 reported by machine shorthand, at the Law Offices of
23 Cutler Smith, 12750 Merit Drive, Suite 1450, in the City
24 of Dallas, County of Dallas, State of Texas, pursuant to
25 the Federal Rules of Civil Procedure.

Frank Heidelberg 5/19/21

3

1 INDEX

PAGE

3	Appearances.....	2
4	Stipulations.....	4
5	FRANK HEIDLBERGER	
6	Examination by Mr. Allen.....	4
7	Examination by Mr. Bohuslav.....	85
8		
9		
10	Reporter's Certificate.....	86

12 EXHIBITS

PAGE

13	NO. DESCRIPTION	
14	Exhibit 24 Notice of Taking Deposition.....	7
15	Exhibit 25 Statement from the Division of Music History, Theory and Ethnomusicology of the University of North Texas.....	34
16	Exhibit 26 E-mail to Benjamin Brand, 7/27/2020.....	34
17	Exhibit 27 E-mail to Frank Heidelberg, 7/28/2020.....	53
18	Exhibit 28 E-mail to Benjamin Brand, 7/27/2020.....	56
19	Exhibit 29 Music History, Theory, and Ethnomusicology - Theoria.....	58
20	Exhibit 30 E-mail to Timothy Jackson, September 14, 2016.....	68
21	Exhibit 31 E-mail to Dr. Jackson, September 17, 2018.....	73
22	Exhibit 32 E-mail to Peter Kohanski, July 30, 2020.....	74
23	Exhibit 33 News from SEM: General News.....	78
24	Exhibit 34 E-mail to John Richmond, July 30, 2020.....	80
25		

Frank Heidelberg 5/19/21

2

1 A P P E A R A N C E S

3 FOR THE PLAINTIFF:

4 MR. MICHAEL THAD ALLEN
5 MS. SAMANTHA HARRIS
6 ALLEN LAW, LLC
7 P.O. Box 404
8 Quaker Hill, Connecticut 06375
9 860.772.4738
10 860.469.2783 Fax
11 m.allen@allen-lawfirm.com

9 FOR THE DEFENDANTS:

10 MR. MATT BOHUSLAV
11 ASSISTANT ATTORNEY GENERAL
12 GENERAL LITIGATION DIVISION
13 ATTORNEY GENERAL OF TEXAS
14 P.O. Box 12548, Capitol Station
15 Austin, Texas 78711
16 matthew.bohuslav@oag.texas.gov

14 AND

15 MR. RENALDO STOWERS
16 SENIOR ASSOCIATE GENERAL COUNSEL
17 UNIVERSITY OF NORTH TEXAS SYSTEM
18 OFFICE OF GENERAL COUNSEL
19 1155 Union Circle
20 Denton, Texas 76203
21 940.565.2717
22 renaldo.stowers@untsystem.edu

20 ALSO PRESENT:

21 MR. TIMOTHY JACKSON
22
23
24
25

Frank Heidelberg 5/19/21

4

1 P R O C E E D I N G S

2 FRANK HEIDLBERGER,

3 having been first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. ALLEN:

6 Q. Mr. Heidelberg, my name is Michael Allen. I'm
7 counsel to Timothy Jackson. Have you ever been deposed
8 before, sir?

9 A. No.

10 Q. So, I'm just going to go over a few ground
11 rules. This is a relatively formal conversation. A
12 deposition, although it's taking place in a private
13 office here, is actually an extension of the Court. The
14 purpose of depositions is both to find out what you
15 know, obviously, and also to find out what you would say
16 at trial.

17 I'll start with a few preliminary
18 questions. Is there anything that would prevent you
19 from giving truthful testimony today?

20 A. No.

21 Q. Are you taking any medication that might affect
22 your memory or ability to testify truthfully?

23 A. No.

24 Q. Are you ill in any way?

25 A. I have Type 1 diabetes, that might affect over

1 sorry.

2 Q. Was this a Jewish composer, by any chance, or

3 something of that nature?

4 A. I can't confirm that.

5 Q. And regardless of the name of the composer,

6 those were archival resources that were located at the

7 center, is that it?

8 A. Again, I am sorry to be unspecific here, but I

9 think so. It could have been related to material that

10 the center has gathered, but I'm not entirely sure.

11 Q. Is it by any chance the name Gunther Raphael?

12 A. Yes. Raphael, yes.

13 Q. Could you pronounce that and spell it for the

14 Court?

15 A. Okay. Gunther Raphael. So, that is G-U-N-T --

16 maybe T-H-E-R, Gunther, and then R-A-P-H-A-E-L.

17 Q. And I guess my last question, I just mean it to

18 be a "yes" or "no" question, if a scholar were to access

19 archival materials of the center and publish something

20 about that, does that make that the center's work, or is

21 that simply the scholar's individual work, in the eyes

22 of the scholarly community in which you're embedded?

23 A. That's not a "yes, no" question.

24 Q. It's good that you point that out. Let me

25 rephrase it. If a scholar accesses the scholarly

1 archives of the center and then publishes something that

2 is the scholar's work on that, is that considered the

3 work of the center?

4 A. No.

5 (DEPOSITION EXHIBIT 25 MARKED.)

6 (MS. HARRIS RE-ENTERS ROOM.)

7 MR. ALLEN: And could I have this exhibit

8 marked as 26?

9 (DEPOSITION EXHIBIT 26 MARKED.)

10 Q. (By Mr. Allen) And please let me know when

11 you've had a chance to examine it.

12 A. Yes.

13 Q. So, these are two documents, and I'm just going

14 to direct your attention to the bottom right of the

15 document. Each one has a UNT number, and I'm just going

16 to represent to you that in the course of litigation,

17 attorneys will mark all exhibits with page numbers that

18 have to do with all the documents produced in the case.

19 So, the UNT designation indicates that this

20 was produced by the University of North Texas as part of

21 this litigation. And I was going to ask you if you

22 recognize these documents, first of all?

23 A. Yes.

24 Q. And I see the date was July 27th, 2020, on

25 Exhibit 26, and it seems to be an e-mail from you to

1 Benjamin Brand, is that correct?

2 A. Yes.

3 Q. What was your purpose in writing this e-mail to

4 Benjamin Brand? And as part of that explanation, could

5 you explain for the Court who Benjamin Brand is?

6 A. Benjamin Brand is the current chair of the

7 Division of Music History, Theory and Ethnomusicology,

8 and as such, my successor in that field.

9 Q. And what was your purpose in sending him this

10 e-mail?

11 A. I sent this e-mail in consequence of emerging

12 concerns by colleagues, partially expressed in e-mails,

13 partially expressed in -- as far as I remember, in --

14 mostly in Facebook, of which one Facebook post by Ed

15 Klorman came up, who singled out the case as we know it.

16 Publication of JSS articles with

17 problematic formulations, and the reactions to this post

18 as they were posted as comments in the bottom of the

19 Facebook posts saying things like, well, I hate to say,

20 but I'm a UNT alumnus or, look at these guys, their MHTE

21 mission statement states that they are fair and

22 non-racist, and then they produce something like that.

23 In other words, the generalization of one

24 particular problematic case as one may interpret that of

25 people involved being interpreted as a general opinion

1 of the division and the theory area as a whole, which

2 would be a wrong interpretation, and my sense that we

3 have to react against this misinterpretation of the work

4 of my colleagues in the division and in the field.

5 Q. You've mentioned a couple terms that I don't

6 understand, a problematic case or one case that we know

7 of. What are you referring to, when you -- speaking in

8 these general terms?

9 A. Yes. I refer to the case that some articles in

10 the Journal of Schenkerian Studies that represent the

11 colloquium as a response to Phil Ewell were not well

12 edited, not edited to the standards of peer reviewed,

13 scholarly journals, but represent opinions, partially

14 even anonymous opinions in a way that is not appropriate

15 for a scholarly journal.

16 And that's not my opinion. That's what I

17 saw in the reactions -- in the public reactions in the

18 field that this was seen as the problem. So the problem

19 of incorrect handling of editorial procedures of a

20 scholarly journal. It's not a newspaper. It's not an

21 opinion paper.

22 And second, the nature of those problematic

23 statements supporting -- and again, that is the

24 perspective that others implemented into this situation,

25 that the articles do exactly that what Phil Ewell tried

1 to fight, and that is the white framing of music theory
 2 in terms of repertoire, in terms of the interpretation
 3 of repertoire and of methodologies, particularly
 4 Schenkerian analysis. And that is -- yeah. That's my
 5 point.
 6 Q. So, I want to ask you, you're referring to the
 7 symposium published in Volume 12 of the Journal of
 8 Schenkerian Studies, correct?
 9 A. That is correct.
 10 Q. And that is distinct from other articles
 11 published in that very same volume, correct?
 12 A. Correct.
 13 Q. Let me ask a preliminary question. Have you
 14 ever heard any criticism of articles, besides the
 15 symposium, published by the Journal of Schenkerian
 16 Studies for what you've characterized as incorrect
 17 handling of editorial opinions?
 18 A. No.
 19 Q. Not even in Volume 12, correct?
 20 A. No.
 21 Q. And could I ask you, as both an experienced
 22 academic and also as the editor of a journal yourself,
 23 are you aware that journals would publish symposia?
 24 A. Yes.
 25 Q. Could you give some examples, just based on

1 your own personal experience?
 2 A. It is usually, in a much smaller scale, a
 3 direct response to an article published in a previous
 4 volume, and you open up the perspective for people who
 5 want to respond, usually criticize statements in a given
 6 article, that then causes a response by another author.
 7 So, it is not usually a collection of
 8 articles, but a response to previously published
 9 articles in the same journal.
 10 Q. Are you aware of journals that would have
 11 published responses to, other than an article published
 12 in a previous volume of the journal, as you've just
 13 characterized it?
 14 A. Sorry. Could you repeat this, please?
 15 Q. Let me see if I can -- I want to see if I
 16 understand what you said. So, it sounds to me like you
 17 are aware of symposia published by other journals in
 18 which there is a collection of perspectives published in
 19 response to an article, but you characterize the article
 20 as usually in a previous volume of that very self same
 21 journal.
 22 A. Yes.
 23 Q. And let me pause to ask, can you explain or
 24 state any specific examples of journals that have done
 25 that, that you know of?

1 A. Well, the small scale type of response that I
 2 refer to, I did this in Theoria about Aspect of
 3 Historical Music Theory, modal theory of the 16th
 4 century. There are two perspectives as to how much
 5 tonal aspects of music theory has influenced the
 6 understanding of modes, which are a medieval way of
 7 explaining the musical scales, can be seen.
 8 And there are basically two opinions, I
 9 guess, or whether this influence of tonal impact us
 10 there. So, I had a discussion like that. So, what I
 11 did is, when I got a response, I said, okay, I will
 12 publish this in the next issue. I informed the author
 13 and told him, okay -- and I informed the -- the
 14 respondent that I will share this answer with the
 15 author, giving him the opportunity to directly respond
 16 to the response.
 17 And I got the response, both where I
 18 checked them carefully for accuracy and no personal or
 19 any kind of inappropriate wording and published them
 20 both in the following volume.
 21 Q. Did you send them out for peer review?
 22 A. No.
 23 Q. Have you ever solicited such responses
 24 yourself, as an editor?
 25 A. No.

1 Q. Have you ever published such a response,
 2 personally, as an author, either in Theoria or any other
 3 journal?
 4 A. Response to criticism on one of my articles,
 5 yes.
 6 Q. Was that peer reviewed?
 7 A. No.
 8 Q. Was the criticism, to your knowledge, peer
 9 reviewed that you were responding to?
 10 A. They were marked as letters to the editor, and
 11 they are usually not peer reviewed, so they were
 12 specifically not articles, but letters.
 13 Q. And was that -- incidentally, can you identify
 14 the publication for the Court?
 15 A. It was the Journal, the Clarinet, the Journal
 16 of the International Clarinet Association, which is not
 17 a peer reviewed journal.
 18 Q. That's not a peer reviewed journal. To your
 19 knowledge, do these kinds of exchanges occur in
 20 otherwise peer reviewed journals?
 21 A. Yes, they do.
 22 Q. You also raise an issue of scale with regard
 23 to -- is it clear -- if I refer to the Journal of
 24 Schenkerian Studies as JSS, or simply the journal, will
 25 you understand what I'm discussing?

1 A. Yes.

2 Q. So, in the JSS, you refer to the scale of the
3 symposium. Do I get that -- did I understand correctly?

4 A. I used the term the scale merely within the
5 context of the 16th century modal theory that I
6 explained. So the musical scale is usually a number of
7 notes within an octave, either a half tone or a whole
8 tone apart from each other that define various modes.
9 So, it is the interpretation of musical scales. I only
10 used that term in that context.

11 Q. I'm glad you cleared that up. And you said
12 that the symposium, which was this collection of papers
13 published in Volume 12 of the journal, was seen by
14 colleagues as supporting exactly the kind of approach to
15 music theory that Philip Ewell was trying to fight.

16 My understanding is that you're referring
17 to Philip Ewell, a professor of Hunter College, and his
18 plenary address to the Society for Music Theory that
19 took place in the beginning of November 2019. Is that
20 correct, just to clear that up?

21 A. I think it was in November 2019, if I'm
22 correct. And yes, the answer is yes.

23 Q. And is that impermissible to oppose Philip
24 Ewell's scholarship on music theory in the way that it
25 was done in the symposium?

Frank Heidelberg 5/19/21

1 A. Absolutely not. If it is done in the right
2 way, I would absolutely support it, and I think it's a
3 healthy way of getting a discourse going or keeping a
4 discourse that was in the field.

5 Q. And what specifically, if there was a wrong way
6 that was done in the journal, what specifically was the
7 wrong way, and what was the right way that should have
8 been followed?

9 MR. BOHUSLAV: Objection, compound.

10 A. I was present at Phil Ewell's presentation and
11 was delighted by the rhetorical elegance of his
12 presentation, and at the same --

13 Q. Go ahead, please.

14 A. I was delighted by the rhetorical elegance and
15 his presentations and shocked, at the same time, by his
16 blunt simplification of very complex historical facts.
17 My first private thoughts that I didn't share with
18 anyone was, oh, my God, how will Tim Jackson react to
19 this? He has to react.

20 And so I thought, he has a journal, and he
21 will do the right things to prevent a platform for open
22 discussion of these points.

23 Q. Can I interject? Did you just say, "prevent a
24 platform"?

25 A. "Provide."

1 Q. "Provide." Thank you.

2 A. At the same time, I was very concerned and was
3 thinking, oh, my God, hopefully he does it politically
4 correctly with all the steps involved. These were my
5 private thoughts because I know Tim Jackson in the best
6 sense and respect his work. But I knew that needs very,
7 very careful consideration and constant oversight from
8 the highest level, in other words, from Tim Jackson
9 himself.

10 Don't get the student involved and the
11 whatever, you know, lecturer who was the previous editor
12 who was involved in this, and discuss it explicitly with
13 the board. That is major. Even asking to the point
14 just, you know, by courtesy to say, you know, okay,
15 we -- I plan something that might be very controversial.
16 Do you agree with me doing this address to the board
17 members?

18 So, assuming all that, and a very strict
19 selective and peer reviewed process with regard to these
20 responses, because they are not responses, they are on
21 their own right reactive scholarly articles towards the
22 main point of Ewell's statements.

23 Given that, it would be absolutely
24 productive and healthy and correct to do this kind in
25 this journal, which is dedicated to Schenkerian studies.

Frank Heidelberg 5/19/21

1 Unfortunately, in the process of seeing the announcement
2 published, and then seeing, once the volume was
3 published, the introduction to the symposium, I was very
4 disappointed and see that this was not handled
5 correctly.

6 Q. And you made a distinction between reactive
7 scholarly articles, not responses. Could you be more
8 specific about what the difference is between those two?

9 A. It was my understanding that Dr. Jackson opened
10 up the JSS primarily to write substantial articles about
11 the points that Dr. Ewell raised in his presentation.
12 If I remember correctly, in the call for papers, that
13 was kind of left open in a way that it also could
14 include immediate reactions, which then were published
15 actually as, you know, one, two paragraphs of some sort,
16 what kind of nonsense Ewell's thing is, you know, how
17 productive that kind of publication is is another
18 question. But it -- just from the status and the
19 character of the journal, I assumed that these will be
20 substantial articles.

21 Q. Is there any requirement, that you know of,
22 that a journal like the JSS not publish responses to a
23 paper such as Philip Ewell's?

24 A. Formally, no.

25 Q. You also said that you were at once impressed

1 Q. (By Mr. Allen) Did you agree with the
2 characterization presented in social media about Volume
3 12 that it's articles were racist?
4 A. I agreed to the extent that some sections of
5 specific articles could be interpreted as racist, yes.
6 Q. And could you identify, if you can remember,
7 the explicitly racist statements in some of the
8 articles? And here I'm quoting from your statement
9 here, if you look down page -- the page marked UNT 503,
10 in the middle of that paragraph, it says, "main points
11 of criticism are the short response time for the call
12 for papers, the inconsistent solicitation of responses,
13 and the explicitly racist statements in some of the
14 articles." So, I'm asking, what would you identify as
15 the explicitly racist statements in some of the
16 articles?
17 MR. BOHUSLAV: I'm going to object to you
18 asking him about a document. Could you show him the
19 document, please --
20 MR. ALLEN: He has the document.
21 MR. BOHUSLAV: -- you're asking about the
22 articles?
23 MR. ALLEN: I asked him if he remembers
24 which statements he's explicitly identifying. I
25 understand your objection, and it's on the record.

Frank Heidelberg 5/19/21

50

1 A. I can name examples of racist statements, but
2 I'm not saying in this -- in this text that there are
3 racist statements in there. I'm saying that these are
4 main points of criticism in the social media statements.
5 So, I'm not explicitly agreeing with them. I see that
6 this -- these points of criticism come up; among them,
7 the criticism of racist statements.
8 Q. (By Mr. Allen) And you did agree, however,
9 that some of the articles had made racist statements. I
10 believe you testified about that earlier, correct?
11 A. The term "racist" is an inappropriate reduction
12 of the problem here, and some statements were simply
13 superficial. And from the perspective of implicit white
14 supremacy, but not necessarily racist as against a
15 certain person with a certain background, and that is
16 maybe implicit of the author, the black music theorist
17 Ewell.
18 But more obvious, it is the appropriateness
19 or inappropriateness of statements at stake here. And
20 that was handled within a very wide range and often
21 inappropriate range in some of the articles, with one
22 exception, and that is, unfortunately, Dr. Jackson's
23 article.
24 When I read it -- sorry. I want to shorten
25 the answer down here. The third third of the article,

51

1 roughly, it's a long article, and he put a lot of work
2 into that. The third third of the article moves from
3 the genre of a scholarly, well-researched article to an
4 inappropriate, opinionated, editorial-like statement,
5 using words like "the blacks", and I'm quoting here,
6 that are not up to speed, in terms of cultural education
7 with western music, and bringing in a whole complicated
8 matter in that of black anti-Semitism, implying that
9 Ewell has something to do with it, because why would it
10 be in a response to Ewell's article?
11 And that I thought was not well thought
12 through, not substantiated by the quotes, even if he
13 quotes some articles about -- including that Wikipedia,
14 and should have been seriously edited by somebody
15 involved in JSS.
16 Q. Do you consider that part -- the last third of
17 the article, I believe you referred to, right?
18 A. Roughly.
19 Q. Do you consider that last third racist?
20 A. I consider it as written so that it can be
21 interpreted as racist.
22 Q. Have you -- in your personal experience with
23 Timothy Jackson since approximately the year 2000, I
24 believe, do you have any direct experience of him being
25 a racist?

Frank Heidelberg 5/19/21

52

1 A. I think you asked that before, and my clear
2 answer was no.
3 Q. Can I ask, what was the intended effect of
4 sending these statements to Dr. Benjamin Brand?
5 A. Dr. Brand often refers to me as an advisor, as
6 a senior advisor with difficult decisions to make, and
7 here I took the initiative to send him some ideas that
8 might come up in an upcoming discourse. It was just
9 meant privately and confidentially, as it is shown in
10 that sense, never that it is published.
11 I wrote this down in five minutes. I had
12 other things to do, but I saw the Facebook thing that --
13 the avalanche of trouble coming towards us. And I said,
14 hey, do something. This is just a summary, take it or
15 dump it, and, you know, that's all.
16 Q. In your experience at UNT, has there ever been
17 a time before where the department was forced or
18 decided -- strike that, please.
19 Was there ever a time before at UNT, in
20 your experience, where the department decided to take
21 action, purely based on social media reactions to what a
22 scholar had written?
23 MR. BOHUSLAV: Objection, assumes facts
24 not in evidence.
25 A. I'm not aware of any.

1 MR. ALLEN: I'm going to mark this as
 2 Exhibit 27.
 3 (DEPOSITION EXHIBIT 27 MARKED.)
 4 Q. (By Mr. Allen) Do you recognize this document,
 5 Professor Heidelberg?
 6 A. Yes, I think so, yes.
 7 Q. And is this an e-mail from Benjamin Brand that
 8 you received on July 28th, 2020?
 9 A. Yes.
 10 Q. And it states, "I think it would be helpful for
 11 the two of us to have a meeting with the dean today to
 12 discuss what's ongoing at SMT and the possible
 13 reputational impact on MHTE and UNT music theory." Did
 14 I read that correctly?
 15 A. Correct.
 16 Q. Did you, in fact, meet with the dean on that
 17 day?
 18 A. Yes.
 19 Q. Can you explain the substance of your meeting
 20 with the dean on that day?
 21 A. It was an informal meeting by Zoom simply to
 22 explain my point of view from inside the field. Both
 23 Dr. Brand and Dr. Richmond are from outside the field,
 24 are not music theorists, and I'm very familiar with SMT
 25 and the persons involved in this kind of discussion.

Frank Heidelberg 5/19/21

54

1 And this is information we exchanged. This
 2 was all. It was not at all discussed what the
 3 consequences will be and such because that in due course
 4 is a matter of the higher administration and of the
 5 dean.
 6 Q. And was the information you discussed
 7 summarized in your statement that we have examined as
 8 Exhibits 25 and 26?
 9 A. Yes.
 10 Q. But as you just stated, there was no potential
 11 action discussed in that Zoom meeting?
 12 A. Correct.
 13 Q. What did you mean by reputational impact on the
 14 MHTE and UNT music theory division?
 15 A. Music theory is a comparatively small field,
 16 particularly in the level we are playing in this field.
 17 There are probably two handfuls of institutions that
 18 provide Ph.Ds in music theory, which means they are
 19 forming the future generation of professors, and we are
 20 competing on that level with schools that are, by
 21 nature, of a higher status.
 22 I'm talking about flagship schools, like
 23 University of Michigan, Florida State University, and
 24 then even into the elite schools, like Yale and
 25 University of Chicago. And we compete directly with

55

1 these schools for students and applicants, and it is a
 2 small field, everybody knows everybody.
 3 And if something goes off track, it
 4 immediately damages the field, and not just the field of
 5 music theory, but within the institution. And with the
 6 situation -- the vulnerable situation we are in as UNT,
 7 representing music so much on a national level. And
 8 that is something I got very aware of as administrator
 9 and was very much eager to protect us, just for the sake
 10 of success of our students, our current students, our
 11 future students, and our junior faculty.
 12 Because by that time we had -- of our
 13 eleven full-time music theorists, we have five tenure
 14 track people who were scared to death by any kind of
 15 this problematic interpretation of what is going on in
 16 Denton, Texas.
 17 Q. By "problematic interpretation of what is going
 18 on in Denton, Texas," do you mean the accusations of
 19 racism being leveled against Timothy Jackson,
 20 individually?
 21 A. Correct.
 22 Q. And I see that in this call to a meeting, which
 23 resulted in the Zoom meeting, you also attach an SMT
 24 announcement from July 27th, 2020. Am I correct to
 25 interpret this as a statement by the Society for Music

Frank Heidelberg 5/19/21

56

1 Theory, in this exhibit?
 2 A. Yes.
 3 Q. Were you in communication with the individual
 4 at the Society for Music Theory who drafted this
 5 statement?
 6 A. No.
 7 Q. Did they contact you at any time to discuss the
 8 developments at the University of North Texas?
 9 A. No.
 10 Q. How did you come to have this statement?
 11 A. In the Facebook post by Ed Klorman, which must
 12 have been on this July 27th, where he outlined the case
 13 kind of for the Facebook public, but also on other
 14 public medium, and I included that in my documentation,
 15 one comment was from the current -- or from the back
 16 then I think president or board member of SMT saying
 17 exactly this, oh, we are preparing a statement. So that
 18 was published publicly on Facebook as a comment and
 19 that's all where my knowledge comes from.
 20 (DEPOSITION EXHIBIT 28 MARKED.)
 21 Q. (By Mr. Allen) Professor Heidelberg, do you
 22 recognize this document?
 23 A. Yes.
 24 Q. You have mentioned some of these individuals
 25 before, but I'm referring to Nicole Biamonte and Ed

1 Professor Heidelberg, I've shown you Exhibit 32.

2 Do you have your own copy?

3 MR. ALLEN: I do, but if you would
4 characterize the exhibit to the Court, I think it would
5 help us.

6 Q. (By Mr. Bohuslav) Okay. I'm showing you
7 what's been marked as Exhibit 32. I'll represent to
8 you, it's the faculty statement in July of 2020. Is
9 that a fair characterization?

10 A. Yes.

11 Q. Okay. When you signed this document, in July
12 of 2020, did you agree with all the statements it
13 contains?

14 A. Yes.

15 Q. And to this day, do you continue to agree with
16 all the statements in that document?

17 A. Yes.

18 MR. BOHUSLAV: Okay. I'll pass the
19 witness.

20 MR. ALLEN: No further questions. We can
21 close the deposition.

22 (DEPOSITION ADJOURNED AT 12:09 P.M.)

23

24

25

1 be returned within 30 days from date of receipt of the
2 transcript. If returned, the attached Changes and
3 Signature Page contains any changes and the reasons
4 therefor;

5 X was not requested by the deponent or a
6 party before the completion of the deposition.

7 I further certify that I am neither attorney
8 or counsel for, nor related to or employed by, any of the
9 parties or attorneys to the action in which this
10 deposition was taken.

11 Further, I am not a relative or employee of any
12 attorney of record in this case, nor am I financially
13 interested in the outcome of the action.

14 Subscribed and sworn to on this 17th day of
15 June, 2021.

16

17

NITA G. CULLEN, Texas CSR #1563

Expiration Date: 08-31-2022

JULIA WHALEY & ASSOCIATES

Firm Registration No. 436

2012 Vista Crest Drive

Carrollton, Texas 75007-1640

214.668.5578

21

22

23

24

25

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS

3 SHERMAN DIVISION

4 TIMOTHY JACKSON,)

5)

6 Plaintiff,)

7) Case No.

8 v.)

9) 4:21-cv-00033-ALM

10 LAURA WRIGHT, et al,)

11)

12 Defendants.)

13

14

15

16

17

18

19

20

21

22

23

24

25

I, Nita G. Cullen, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, FRANK HEIDLBERGER, was duly sworn
by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

I further certify that pursuant to FRCP Rule
30(f)(1) that the signature of the deponent:

_____ was requested by the deponent or a
party before the completion of the deposition and is to

Response draft

Heidlberger, Frank <Frank.Heidlberger@unt.edu>

Mon 7/27/2020 4:32 PM

To: Brand, Benjamin <Benjamin.Brand@unt.edu>

1 attachments (151 KB)

Statement draft and ideas.docx;

Dear Benjamin

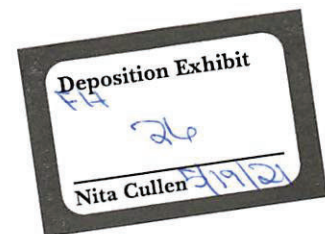
As mentioned I am sending you the attached draft. It is by no means meant as something publishable but includes some thoughts for a specific response about the values and ethics of the MHTE faculty. Recent FB posts indicate that all of us, or at least Theory faculty, could be pulled into a very negative reputation. Phil just posted on FB that he canceled his visit to UNT, quoting his message to Ellen and Stephen, talking about the situation with "your journal." This is why we need to distance ourselves from the journal. If not institutionally since this won't be possible, then individually. I as faculty member do not want to be associated with any of this, damaging my reputation and acceptance in the field. I am afraid that Phil now also withdraws his article from Theoria that was about to be published. I haven't heard from him yet.

Let me know what you think.

[I wanted to edit the draft before sending it to you, but I have something else that needs immediate attention, so please take it as is]

Frank

Dr. Frank Heidlberger
Professor of Music Theory
Music Theory Area Coordinator
University of North Texas
College of Music
1155, Union Circle # 311367
Denton, TX 76203
U.S.A.
Phone: (940) 369-7542
Fax (940) 565-2002

**APPX.074****UNT 000472**

Statement from the Division of Music History, Theory and Ethnomusicology of the University of North Texas

In light of the current discourse of “White Framing of Music Theory,” the Journal of Schenkerian Studies published response articles about Phil Ewell’s presentation at SMT [title], now also available as an article in MTO [...]. The call for papers, the editorial process and the content of some of the articles published by JSS have been strongly criticized on social media, particularly Facebook and Twitter. Main points of criticism are the short response time for the Call for papers, the inconsistent solicitation of responses, and the explicitly racist statements in some of the articles representing exactly the “white framing” that Dr. Ewell is fighting against. This criticism of the handling of this important topic by the Journal of Schenkerian Studies and the content of some of its responses cannot remain uncommented by the Division of Music History, Theory and Ethnomusicology, which formally houses the Center of Schenkerian Studies and its journal.

The Division, and its theory faculty in particular wishes to clarify that the opinions represented by the Journal of Schenkerian Studies do not represent the work ethics and scholarly standards held up by the faculty as a whole. The theory area and the division is deeply concerned and distances itself from the editorial processing and content of this volume. The upper administration of UNT is aware of the situation and will react appropriately.

The theory area consists of 11 full-time faculty members that perform work on the highest level of scholarly rigor and with a deep understanding of the importance of diversifying the field regarding areas of research and personnel. The theory area has diversified its curriculum toward non-Western and non-classical music, integrating these topics into its undergraduate core as well as its Master’s and Doctoral programs. The area has successfully implemented a spirit of openness and communication along with its sister disciplines of Musicology and Ethnomusicology, encouraging cross-disciplinary studies related to gender, race and social studies in music. The student body of the UNT College of Music is highly diverse and the MHTE division strongly supports these students in pursuing their goals toward a professional training in music.

Racism and “white framing” do not have a space at UNT and its academic units, as it is expressed in the mission statement of MHTE [...]. The faculty of the theory area, the MHTE Division, and the College of Music of UNT welcomes the critical discourse that supports a strong rejection of any racist or otherwise motivated exclusion of individuals from academia and promotes a diverse approach to its fields and topics.

....

Re: [EXT] [Smt-Announce] SMT Exec Board response to JSS Essays

Brand, Benjamin <Benjamin.Brand@unt.edu>

Tue 7/28/2020 8:20 AM

To: Heidelberg, Frank <Frank.Heidelberg@unt.edu>

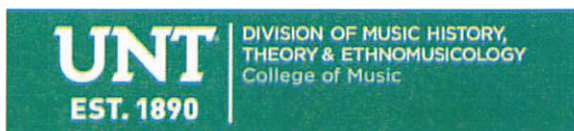
Thanks for this. I think it would be helpful for the two of us to have a meeting with the dean today to discuss what's going on at SMT and the possible reputational impact on MHTE and UNT music theory. Are you free to meet this afternoon?

Benjamin Brand, Ph.D.

Pronouns: he, him, his | Professor of Music History

Chair, Division of Music History, Theory, and Ethnomusicology

College of Music | University of North Texas | (940) 536-3561



From: Frank Heidelberg <Frank.Heidelberg@unt.edu>

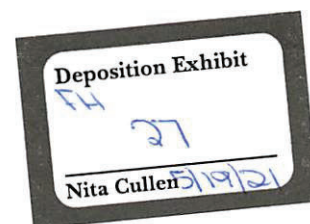
Date: Monday, July 27, 2020 at 10:06 PM

To: "Brand, Benjamin" <Benjamin.Brand@unt.edu>

Subject: Fw: [EXT] [Smt-Announce] SMT Exec Board response to JSS Essays

In case you haven't gotten this...

Dr. Frank Heidelberg
Professor of Music Theory
Music Theory Area Coordinator
University of North Texas
College of Music
1155, Union Circle # 311367
Denton, TX 76203
U.S.A.
Phone: (940) 369-7542
Fax (940) 565-2002



From: Smt-announce <smt-announce-bounces@lists.societymusictheory.org> on behalf of Society for Music Theory <societymusictheory@gmail.com>

Sent: Monday, July 27, 2020 6:55 PM

To: smt-announce@lists.societymusictheory.org <smt-announce@lists.societymusictheory.org>

Subject: [EXT] [Smt-Announce] SMT Exec Board response to JSS Essays

The Executive Board of the Society for Music Theory condemns the anti-Black statements and personal ad hominem attacks on Philip Ewell perpetuated in several essays included in the "Symposium on Philip Ewell's 2019 SMT Plenary Paper" published by the Journal of Schenkerian Studies.

The conception and execution of this symposium failed to meet the ethical, professional, and scholarly standards of our discipline. Some contributions violate our Society's policies on harassment and ethics.

As reported by participants, the journal's advisory board did not subject submissions to the normal processes of peer review, published an anonymously authored contribution, and did not invite Ewell to respond in a symposium of essays that discussed his own work. Such behaviors are silencing, designed to exclude and to replicate a culture of whiteness. These are examples of professional misconduct, which in this case enables overtly racist behavior. We humbly acknowledge that we have much work to do to dismantle the whiteness and systemic racism that deeply shape our discipline. The Executive Board is committed to making material interventions to foster anti-racism and support BIPOC scholars in our field, and is meeting without delay to determine further actions.

Patricia Hall, President
Robert Hatten, Past-President
Gretchen Horlacher, Vice President
Philip Stoecker, Secretary
Jocelyn Neal, Treasurer
Inessa Bazayev
Anna Gawboy
Julian Hook
Jennifer Iverson
Nancy Yunhwa Rao
Leigh VanHandel

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

TIMOTHY JACKSON,	§	
	§	
Plaintiff,	§	
	§	Civil Action No.
VS.	§	
	§	4:21-cv-00033-ALM
LAURA WRIGHT, et al.,	§	
	§	
Defendants.	§	
	§	

ORAL AND VIDEOTAPED DEPOSITION OF

TIMOTHY JACKSON, Ph.D.

SEPTEMBER 24, 2024

The Oral and Videotaped Deposition of
TIMOTHY JACKSON, Ph.D., produced as a witness at the
instance of the defendants, and duly sworn, was taken in
the above-styled and numbered cause on SEPTEMBER 24,
2024, from 9:07 a.m. to 6:22 p.m., before Nicole A.
Hatler, CSR No. 11275 in and for the State of Texas,
reported by machine shorthand, at the University of
North Texas System, 801 North Texas Blvd, Gateway Suite
308, Denton, TX 76201.

---oOo---

<p>14</p> <p>1 school. It's, sort of, like a vast -- it's very similar 2 to Harvard. 3 Q. Okay. 4 A. So I spent three years there getting a 5 bachelor's degree in composition. 6 Q. So you got your bachelor's degree in three 7 years? 8 A. Yes. 9 Q. And then -- now, it seems that at Juilliard you 10 were more focused on piano performance -- 11 A. Right. 12 Q. -- and in college, you were more focused on 13 composition by then. 14 A. Right. 15 Q. Why the shift? 16 A. I always wanted to be a composer, but unlike 17 Mozart, who was already a composer at the age of 6, I 18 was just a pianist as a kid, all right. And I wanted to 19 learn how to compose. 20 So I had composed a little bit on the side, 21 and I remember that, in order to apply to McGill, I had 22 to provide a portfolio of compositions. And I did, and 23 I got in. And it was a very, very challenging program, 24 I can tell you. The first day I was in classes, the 25 professor sat with six students who were accepted down</p>	<p>16</p> <p>1 Q. Sure. 2 A. So I went to the Queens College for two years 3 to get a master's degree. 4 Q. So you did get a master's degree from Queens? 5 A. Yes. 6 Q. And what was that master's degree in? 7 A. It was in music theory, but I began in 8 composition. I actually originally applied in 9 composition, but while I was at Queens, I studied with a 10 very famous -- another Schenkerian who was there by the 11 name of Carl Schachter, and I realized that my real 12 interest was in music theory and Schenkerian theory, in 13 particular, so I switched. 14 Q. What was it about Schenkerian theory that 15 attracted you? 16 A. Well, I believe that Schenker was the Einstein 17 of music theory and that his approach makes it possible 18 to understand music in a certain way that allows us to 19 really understand what the composers were thinking when 20 they wrote the music. So what is the underlying 21 compositional idea? What is the underlying 22 philosophical idea behind the music? That was 23 fascinating to me, so I decided that that was going to 24 be my life's vocation. 25 Q. And, sort of, for a laymen who is a</p>
<p>15</p> <p>1 at a table just like this one -- and this was my very 2 first day at university -- and he said, "At the end of 3 the first year, there will be one of you sitting at this 4 table." 5 So everybody looked at everybody else like 6 they were on a sinking ship, but I was the only 7 survivor. 8 Q. And after three years, when you graduated with 9 your bachelor's, did you go into another graduate study 10 program or did you obtain employment somewhere? 11 A. No. I -- I -- it's very hard to get a 12 degree -- I mean to get a job just with a bachelor's 13 degree, especially in this field. So no, I -- I thought 14 about what I wanted to do, and I -- I decided to go to 15 Toronto -- University of Toronto for a year to begin a 16 master's degree. 17 And I started studying Schenkerian analysis 18 in Toronto with a very, very amazing teacher by the name 19 of Edward Laufer. And unfortunately, Laufer didn't have 20 his doctorate, so he wasn't allowed to teach graduate 21 courses. So I studied surreptitiously with him. And 22 that's when I decided, with his help, to apply to go to 23 Queens College in New York City. 24 And that's when I -- I went, basically. 25 That's when I immigrated from Canada, sort of, de facto.</p>	<p>17</p> <p>1 nonmusician, certainly a nontheorist, how would you 2 describe Schenkerian analysis in just a couple of 3 sentences? 4 A. Well, it's impossible to really describe it. I 5 mean, it's like saying how would you describe 6 Einsteinian physics in a couple of sentences, right. 7 You're not going to learn it while standing on one foot, 8 I can tell you that. And there's an enormous learning 9 curve. It's not something that you can pick up in one 10 semester. 11 So it really is a very intricate and 12 technical understanding of music that requires, really, 13 years of study with the very best teachers. And so, 14 some of my teachers said to me that it takes about six 15 years of intense study to get to the point where you're 16 an independent scholar in this field, and I found that 17 to be, basically, true. So it took me about six years 18 of intense study before I really could feel that I knew 19 something about Schenkerian analysis. And I'm still 20 learning, actually. 21 Q. So -- so is it fair to say that, in your 22 understanding, Schenkerian analysis is -- is really not 23 something that -- that the average person could 24 understand until they studied it for a long time? 25 A. Right.</p>

<p>18</p> <p>1 Q. Okay.</p> <p>2 A. That's true. It's like quantum mechanics. You</p> <p>3 know, you can't just walk off the street and understand</p> <p>4 it.</p> <p>5 Q. So after you graduated with your master's at</p> <p>6 Queens, did you pursue any other education or did you</p> <p>7 pursue employment?</p> <p>8 A. No. I was still not ready for the job market.</p> <p>9 So I continued into the graduate center at CUNY, which</p> <p>10 is their doctoral program in music theory. And also</p> <p>11 after spending two -- doing two years of course work</p> <p>12 there, I decided that I wanted to write my dissertation</p> <p>13 on the composer Richard Strauss, who was a famous German</p> <p>14 composer, and also that I wanted to study in Europe</p> <p>15 because I felt that the American system -- or American</p> <p>16 education system, as wonderful as it was, didn't offer a</p> <p>17 full perspective on German music, and that was my main</p> <p>18 interest.</p> <p>19 So I decided to go to Bavaria in Germany,</p> <p>20 and I got a scholarship from the -- it's called the</p> <p>21 German Academic Exchange Fellowship Program. And the</p> <p>22 scholarship allowed me to go to Munich. I lived in the</p> <p>23 Olympic village, that -- they took the little houses</p> <p>24 that were made for the athletes and converted them into</p> <p>25 student housing. So I lived there for a year.</p>	<p>20</p> <p>1 A. So I spent a year there and then I went back to</p> <p>2 New York to finish my doctorate and wrap up everything.</p> <p>3 I've oversimplified a little bit because I commuted</p> <p>4 sometimes between New York and Germany.</p> <p>5 Q. Sure.</p> <p>6 A. But I finished my doctoral degree at CUNY, and</p> <p>7 while I was in Germany doing my doctoral research, I was</p> <p>8 already thinking that I'd like to -- to go back to</p> <p>9 Europe, but this time I wanted to go to Austria. And</p> <p>10 so, what I did was I had spied out manuscripts for Anton</p> <p>11 Bruckner, another well-known 19-century composer, and I</p> <p>12 had come up with a research project based on Bruckner.</p> <p>13 And so, I applied for another year, but this time from</p> <p>14 the Austrian government, to spend a year looking at</p> <p>15 Bruckner manuscripts.</p> <p>16 So I was very lucky to win that, and I</p> <p>17 spent a year in Vienna. And that was a very wonderful</p> <p>18 year, because by that time, my German was getting</p> <p>19 better, really pretty good. And that was good because</p> <p>20 Austria speaks a slightly different German than --</p> <p>21 than -- than Germany does. They have a -- it's almost</p> <p>22 like Texas, but even more so.</p> <p>23 So if people from Germany, especially</p> <p>24 northern Germany, hear Austrians speaking, the</p> <p>25 difference is even bigger than people, let's say, from</p>
<p>19</p> <p>1 And at the same time, I -- I took a</p> <p>2 course -- or courses at the Bavarian Academy of Arts and</p> <p>3 Sciences, and I also pursued my research for my</p> <p>4 dissertation in Garmisch-Partenkirchen, in Richard</p> <p>5 Strauss' personal house. I -- I had made arrangements</p> <p>6 to study there. And so, I actually had the great</p> <p>7 privilege of working at his desk and going through his</p> <p>8 private papers for my dissertation.</p> <p>9 Q. And just for the record, is it fair to say that</p> <p>10 Richard Strauss was a German composer from the romantic</p> <p>11 era?</p> <p>12 A. Well, he -- he died in 1948, but some people</p> <p>13 talk about the long 19th century. He was, basically,</p> <p>14 a -- some people saw him as a relic of the 19th century,</p> <p>15 but I thought he was very interesting and worthy of</p> <p>16 study. So that's why I wrote my dissertation on his</p> <p>17 last work.</p> <p>18 Q. So would you classify Richard Strauss as</p> <p>19 romantic or post romantic?</p> <p>20 A. Post romantic would be good. That's a good</p> <p>21 point, yeah.</p> <p>22 Q. Okay. Okay. And it's your understanding he</p> <p>23 was a German composer?</p> <p>24 A. Oh, yes.</p> <p>25 Q. All right. How long did you study in Munich?</p>	<p>21</p> <p>1 Boston coming down here and hearing a Texas accent.</p> <p>2 It's quite different, and my ears became attuned to</p> <p>3 Austrian dialect and to Viennese dialect, which is quite</p> <p>4 different. And so, that was good -- so I could navigate</p> <p>5 my way through Austria.</p> <p>6 And it was a very, very wonderful</p> <p>7 experience for me, I have to say. I -- I didn't just</p> <p>8 look at Bruckner there. I did a lot of things. And I</p> <p>9 traveled also. I went to the communist part of Europe</p> <p>10 because Europe was still communist at that time. And I</p> <p>11 went to Poland and looked at manuscripts there and so</p> <p>12 forth.</p> <p>13 And then I went back to Canada and I taught</p> <p>14 for a year at the University of Toronto. My mentor,</p> <p>15 Edward Laufer, helped me win another grant, which was a</p> <p>16 teaching and research grant. So I taught part-time at</p> <p>17 the university and I worked on my project -- on my</p> <p>18 Bruckner project.</p> <p>19 Q. And when --</p> <p>20 A. And then in 1998 -- no. Sorry earlier than</p> <p>21 that. 1994 or '3. I can't remember now exact time, but</p> <p>22 I got my first job, finally.</p> <p>23 Q. Okay. What year was it that you earned your</p> <p>24 doctorate degree?</p> <p>25 A. 1988.</p>

<p>167</p> <p>1 got to listen -- just because you're a student, you got 2 to do what we say. That -- that wasn't the atmosphere. 3 Q. Do you recall any instances where a student 4 editor wanted to publish -- wanted to accept for 5 publication a submission where you or Professor Slottow 6 disagreed? 7 A. No. Except for that one case which I 8 mentioned, the David Beech situation. 9 Q. I see. 10 And was that an example of where a student 11 editor was going to reject it, but you asked them to -- 12 A. Right. 13 Q. -- to wait? 14 Okay. Let me flip the -- the previous 15 question and ask it the other way. Are you aware of any 16 instances other than that where a student editor was 17 inclined to reject a submission for publication but you 18 or Dr. Slottow disagreed with that? 19 A. No. 20 Q. Okay. For submissions that were going to be 21 published as peer reviewed submissions in the JSS, who 22 decided how many reviewers to put on an article and who 23 those reviewers were going to be? 24 A. Usually that was the student editors who were 25 doing that, and they were receiving the comments, not me</p>	<p>169</p> <p>1 let's say you were asking about how did they know where 2 to send their things out for review. So when we had our 3 meetings, we would brainstorm, this article is probably 4 good for these readers. And they, basically, learned 5 how to do it on the job. They didn't have like a code 6 of conduct or a code of rule book. 7 We didn't have a rule book that said, you 8 know, now you must do this, now you must do that. But 9 we -- that was our job. Our job, like Slottow and me, 10 was to supervise and make sure that things went well in 11 terms of the protocols. 12 Q. Who chose the editorial board members? 13 A. Well, Slottow and I did it at the very outset, 14 when we -- when we set up the journal. And then over 15 the years -- over the 20 years that we published the 16 journal, some people died and other people were added. 17 Q. So when a -- when someone was appointed to -- 18 accepted the invitation to serve on the editorial board 19 for the JSS, were there any term limits on that? 20 A. No. 21 Q. Was there ever any period of reevaluation? 22 A. Not really. The -- we thought, though, that it 23 was -- it was too big. After a while it -- we decided 24 it that it was too big, and I think our intention was to 25 prune it down. But we didn't really do that.</p>
<p>168</p> <p>1 or Slottow. I think that in a few cases where there 2 were -- we weren't sure, that we looked at the comments, 3 all of us. But usually it was pretty clear cut. 4 Q. The student editors, would they send -- would 5 they send submissions to other members of the editorial 6 board for peer review? 7 A. Uh-huh. If it was appropriate. 8 Q. I see. 9 A. In other words, if it was in their sphere of 10 interest. 11 Q. Sure. 12 A. That was the preferred thing. 13 Q. Are you aware of -- of when articles would be 14 peer reviewed by reviewers that were not on the 15 editorial board of the JSS? 16 A. There were has a few cases, I think, where that 17 happened because we didn't have anybody on the board who 18 was a specialist in that particular field. So I'm 19 pretty sure that in one or two cases, people were asked 20 to review things who weren't on the board officially. 21 Q. Sure. How did the student editors know, 22 basically, how to do their job? 23 Were there -- were there some sort of 24 written procedures for them to follow? 25 A. Not really. We -- we supervised them. So</p>	<p>170</p> <p>1 Q. Who decided it was too big? 2 A. Well, we, kind of, selectively felt that way, 3 especially Slottow seemed to think it was too big. I 4 really didn't mind one way or the other because I think 5 that the more people you have, the better because you 6 can have more specialties. 7 Q. How many -- well, was there ever anyone who 8 asked or chose to leave or resign from the editorial 9 board? 10 A. After the appearance of the Ewell symposium, if 11 we want to call it that, I received -- I think two or 12 three people wrote in saying they wanted to resign. 13 Q. And about how many editors were on the board at 14 that time? 15 A. Well, it wasn't editors. These were on the 16 editorial board -- they were like the advisory board. 17 Yeah. 18 Q. Excuse me. 19 A. Yeah. 20 Q. How many people were on the editorial board at 21 that time? 22 A. So you mean me, Slottow, or -- Lavi Wells and 23 Benjamin Grand -- Benjamin Graf -- I mean. I'm sorry -- 24 Benjamin Graf. 25 Q. And what was the --</p>

<p>195</p> <p>1 thought about it, the more I thought that in the -- in</p> <p>2 the speaking of -- in the spirit of dialectics, which I</p> <p>3 consider essential for all serious scholarship, there</p> <p>4 should be pros and cons.</p> <p>5 So I thought that it wasn't be great if I</p> <p>6 just contacted the cons, but that we would send out a</p> <p>7 general call for contributions to the symposium, and</p> <p>8 that would enable people who were in favor of Ewell's</p> <p>9 talk and his points and his point of view, and that we</p> <p>10 would publish both without censorship and let the public</p> <p>11 decide. Because I'm of the view more speech is better</p> <p>12 is the way to get to the truth, not censoring people.</p> <p>13 Q. And how was it determined whether those</p> <p>14 responses would or would not be peer reviewed?</p> <p>15 A. Well, we -- we weren't -- you see, we were</p> <p>16 asking for people to respond in a sense of not writing</p> <p>17 an article about it -- not writing a peer reviewed</p> <p>18 article about it, but just expressing their opinions</p> <p>19 about Ewell's thesis because it was really quite</p> <p>20 controversial, and that was the spirit of the call.</p> <p>21 Q. I see.</p> <p>22 Do you recall having any conversations with</p> <p>23 Mr. Walls about whether these responses would be peer</p> <p>24 reviewed?</p> <p>25 A. No.</p>	<p>197</p> <p>1 but also -- yeah, as neutral and properly focused as</p> <p>2 possible. So that it would attract pros and cons.</p> <p>3 Q. Do you recall any specific edits or suggestions</p> <p>4 that you suggested that call that were not incorporated?</p> <p>5 A. I think there was a few, but you know what? I</p> <p>6 wasn't going to quibble about it.</p> <p>7 Q. Do you recall what they were?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 A. We just -- I just -- I remember saying to</p> <p>11 myself, well, maybe this isn't quite what we should do,</p> <p>12 but let's let it go. Let -- let -- let the chips fall</p> <p>13 where they may.</p> <p>14 Q. Had you discussed the idea of publishing</p> <p>15 responses to Ewell's address with any Schenkerian</p> <p>16 scholars before that call went out?</p> <p>17 A. Yes.</p> <p>18 Q. Who had you discussed it with?</p> <p>19 A. Oh, a whole bunch of people. A whole group of</p> <p>20 scholars.</p> <p>21 Q. And was that through one-on-one contact with</p> <p>22 them --</p> <p>23 A. Yes.</p> <p>24 Q. -- or was it through a group communication?</p> <p>25 A. No, it was through one-on-one.</p>
<p>196</p> <p>1 Q. Okay. Do you recall Dr. Slottow ever</p> <p>2 mentioning the idea of peer reviewing them?</p> <p>3 A. No.</p> <p>4 Q. Who -- when you refer to the call, are you</p> <p>5 referring to the written call for submissions that was</p> <p>6 sent out through the SMT list serve?</p> <p>7 A. Yes.</p> <p>8 Q. Who drafted that call?</p> <p>9 A. Not me. It was drafted I think by other</p> <p>10 people. Probably by Ben Graf and Levy Walls, and</p> <p>11 maybe -- we had input in it. We -- we they began with</p> <p>12 the draft, and then Dr. Slottow and I gave our two cents</p> <p>13 worth. I don't believe they took all of our</p> <p>14 suggestions, but they basically sent it out having</p> <p>15 absorbed some thoughts from us and from other faculty,</p> <p>16 actually.</p> <p>17 I -- I wanted to -- because I knew this</p> <p>18 would be controversial, although I never had any inkling</p> <p>19 of how controversy it would be, I wanted to consult all</p> <p>20 the faculty in the music theory area who had any</p> <p>21 experience with Schenkerian analysis. And so I asked</p> <p>22 Diego Cubero and Olga, who calls herself Ellen,</p> <p>23 Velikanova for their input. And also we asked some</p> <p>24 other people in the faculty for their input into the</p> <p>25 call and how to frame it so that it would be as neutral</p>	<p>198</p> <p>1 Q. And did --</p> <p>2 A. And, you see, what happened was that -- that</p> <p>3 was the initial plan, was to, in fact, ask the</p> <p>4 Schenkerian scholars what they thought. And then I --</p> <p>5 in the course of doing that, I recognized that that was</p> <p>6 unfair. I thought that was unfair. So that's when I</p> <p>7 felt that we should really branch out and -- and issue</p> <p>8 the call through the SMT for all sundry to respond.</p> <p>9 Q. Before the SMT call went out, had you discussed</p> <p>10 this idea of responses with anyone who was sympathetic?</p> <p>11 A. I don't know who was sympathetic exactly,</p> <p>12 really. I didn't have any idea, and I still don't</p> <p>13 because not all the Schenkerians that I contacted wanted</p> <p>14 to submit responses. So some of them may well be</p> <p>15 sympathetic.</p> <p>16 Q. You just don't know?</p> <p>17 A. I can guess a few of them, but I'm not sure.</p> <p>18 But they declined.</p> <p>19 Q. So you don't know what their response would</p> <p>20 have been had they agreed to write one?</p> <p>21 A. I'm not a prophet. No.</p> <p>22 Q. All right.</p> <p>23 A. But once we decided to go with the call, I felt</p> <p>24 very comfortable about the whole thing because I thought</p> <p>25 it was fair. In other words, I thought that once we had</p>

<p style="text-align: right;">259</p> <p>1 conversations to base that on?</p> <p>2 A. No.</p> <p>3 Q. Okay.</p> <p>4 A. Because the dean never consulted me before</p> <p>5 issuing that statement.</p> <p>6 Q. And just for the record, do you have any</p> <p>7 specific document to support that belief?</p> <p>8 MR. ALLEN: Objection.</p> <p>9 THE WITNESS: No, I don't. I don't think</p> <p>10 so. I have the dean's statement, which I received along</p> <p>11 with all the other people in the school of music.</p> <p>12 Q. BY MR. WALTON: Similar question for -- I'll</p> <p>13 just say for the dean statement, but the decision by the</p> <p>14 university, whoever made the decision to institute this</p> <p>15 ad hoc review panel, did anyone ever tell you that that</p> <p>16 was done in response to the student statement or the</p> <p>17 faculty statement?</p> <p>18 A. I don't think it was explicitly indicated in</p> <p>19 the document, although I can't remember that for sure.</p> <p>20 In other words, nobody came and said, okay, because of</p> <p>21 these publicized statements, we are going to create the</p> <p>22 ad hoc committee to do this investigation.</p> <p>23 But what happened was that the students and</p> <p>24 faculty called for such a committee, and the</p> <p>25 administration succeeded to that demand and did call the</p>	<p style="text-align: right;">261</p> <p>1 this point, if I'm not mistaken, it wasn't clear that</p> <p>2 they were actually going to shut the journal down. That</p> <p>3 was made clear later by Dr. Brand.</p> <p>4 Q. And how did Dr. Brand communicate that?</p> <p>5 A. He communicated it in writing as well as</p> <p>6 verbally. So in one of our legal documents here we</p> <p>7 actually quoted Dr. Brand's statement saying that I was</p> <p>8 no longer going to be connected to the journal in any</p> <p>9 way, shape, or form because of my editorial malpractice,</p> <p>10 if you will, and that that was a decision that had been,</p> <p>11 obviously, taken by the administration.</p> <p>12 Q. You took Dr. Brand's e-mail to mean that that</p> <p>13 was already a hard and fast decision?</p> <p>14 A. Yes, it was expressed in that manner.</p> <p>15 Q. And did you have any --</p> <p>16 A. That I was removed from the journal.</p> <p>17 Q. And did you ever hear any or see any statement</p> <p>18 from Dr. Brand that -- that a decision had been made not</p> <p>19 simply to remove you, but to shut the whole journal</p> <p>20 down?</p> <p>21 A. No. I did not receive such a statement. It</p> <p>22 seemed like they wanted to hire a new editor, which was</p> <p>23 what they tried to do.</p> <p>24 Q. Okay. After you got that e-mail from Dr. Brand</p> <p>25 about your ongoing involvement in the journal that you</p>
<p style="text-align: right;">260</p> <p>1 committee into effect. So could I say that there's a</p> <p>2 kind of logic there between the call for the</p> <p>3 investigation and the issuing of the promise to -- to</p> <p>4 have an investigation and then the actual investigation?</p> <p>5 It would seem like there is a connection, you know.</p> <p>6 Q. And I'm just asking, in addition to what you've</p> <p>7 just described, are there any specific conversations or</p> <p>8 documents that you believe exist that make that</p> <p>9 connection explicit?</p> <p>10 MR. ALLEN: Objection.</p> <p>11 THE WITNESS: I don't know of those because</p> <p>12 the Dean never contacted me --</p> <p>13 Q. BY MR. WALTON: Okay.</p> <p>14 A. -- to ask me about anything.</p> <p>15 Q. When you got the -- when you saw the report</p> <p>16 from the panel --</p> <p>17 A. Yes.</p> <p>18 Q. -- did you have any conversations with anyone</p> <p>19 about whether or how to implement the recommendations in</p> <p>20 that report?</p> <p>21 A. Yes.</p> <p>22 Q. What were those conversations?</p> <p>23 A. Well, I -- I actually talked with various</p> <p>24 people about the -- the recommendations for the journal</p> <p>25 going forward on, because it wasn't clear that -- at</p>	<p style="text-align: right;">262</p> <p>1 just described, did you attempt to have any further</p> <p>2 conversation with him about that?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. It seemed like -- I mean, it didn't just seem</p> <p>6 like it. A decision was taken. What -- what would I</p> <p>7 have gone to see him about?</p> <p>8 MR. WALTON: Let's go ahead and go off the</p> <p>9 record and take a break.</p> <p>10 MR. ALLEN: Okay.</p> <p>11 THE VIDEOGRAPHER: We're off the record at</p> <p>12 5:17 p.m.</p> <p>13 (A recess was held from 5:17 p.m. to 5:33 p.m.)</p> <p>14 THE VIDEOGRAPHER: We're back on the record</p> <p>15 at 5:33 p.m.</p> <p>16 Q. BY MR. WALTON: Dr. Jackson, we're back after a</p> <p>17 break. Are you ready to proceed?</p> <p>18 A. Ready.</p> <p>19 Q. If you look at Exhibit 3, the ad hoc review</p> <p>20 panel report, and you flip back to Exhibit 3 -- to the</p> <p>21 Exhibit 3.</p> <p>22 A. Wait a second. I'm confused.</p> <p>23 Q. Page 189.</p> <p>24 A. Oh, here. Yes, yes.</p> <p>25 Q. And this is the -- this is a version of a</p>

<p>295</p> <p>1 I, TIMOTHY JACKSON, Ph.D., have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5</p> <p>6 _____</p> <p>7 TIMOTHY JACKSON, Ph.D.</p> <p>8 THE STATE OF _____)</p> <p>9 COUNTY OF _____)</p> <p>10 Before me _____ on this day</p> <p>11 personally appeared TIMOTHY JACKSON, Ph.D., known to me</p> <p>12 (or proved to me under the oath or through</p> <p>13 _____) (description of identity card or</p> <p>14 other document) to be the person whose name is</p> <p>15 subscribed to the foregoing instrument and acknowledged</p> <p>16 to me that they executed the same for the purposes and</p> <p>17 consideration therein expressed.</p> <p>18 Given under my hand and seal of office this</p> <p>19 _____ day of _____, 2024.</p> <p>20</p> <p>21</p> <p>22 _____</p> <p>23 NOTARY PUBLIC IN AND FOR</p> <p>24 THE STATE OF _____</p> <p>25</p>	<p>297</p> <p>1 November 16, 2024;</p> <p>2 I further certify that pursuant to FRCP Rule</p> <p>3 30(f)(1) that the signature of the deponent:</p> <p>4 ___X___ was requested by the deponent or a part</p> <p>5 before the completion of the deposition and that the</p> <p>6 signature is to be before any notary public and returned</p> <p>7 within 30 days from the date of receipt of the</p> <p>8 transcript. If returned, the attached Changes and</p> <p>9 Signature Page contains any changes and the reasons</p> <p>10 therefore:</p> <p>11 _____ was not requested by the deponent or a</p> <p>12 part before the completion of the deposition.</p> <p>13 I further certify I am neither counsel for,</p> <p>14 related to, nor employed by any of the parties or</p> <p>15 attorneys in the action in which this proceeding was</p> <p>16 taken, and further that I am not financially or</p> <p>17 otherwise interested in the outcome of the action.</p> <p>18 Certified to by me this 17th day of OCTOBER,</p> <p>19 2024.</p> <p>20</p> <p>21</p> <p>22 _____</p> <p>23 Nicole A. Hatler, Texas CSR 11275</p> <p>24 Expiration Date: 11/30/24</p> <p>25 Integrity Legal Support Solutions</p> <p>9901 Brodie Ln., #160-400</p> <p>Austin, TX 78748</p> <p>(512) 320-8609</p> <p>www.integritylegal.support</p>
<p>296</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 EASTERN DISTRICT OF TEXAS</p> <p>3 SHERMAN DIVISION</p> <p>4 TIMOTHY JACKSON, §</p> <p>5 §</p> <p>6 Plaintiff, §</p> <p>7 § Civil Action No.</p> <p>8 VS. §</p> <p>9 § 4:21-cv-00033-ALM</p> <p>10 LAURA WRIGHT, et al., §</p> <p>11 §</p> <p>12 Defendants. §</p> <p>13 §</p> <p>14</p> <p>15 REPORTER'S CERTIFICATION</p> <p>16 ORAL AND VIDEOTAPED</p> <p>17 DEPOSITION OF TIMOTHY JACKSON, Ph.D.</p> <p>18 SEPTEMBER 24, 2024</p> <p>19</p> <p>20 I, Nicole A. Hatler, Certified Shorthand</p> <p>21 Reporter No. 11275 in and for the State of Texas, hereby</p> <p>22 certify to the following:</p> <p>23 That the witness, TIMOTHY JACKSON, Ph.D., was</p> <p>24 duly sworn by the officer and that the transcript of the</p> <p>25 oral deposition is a true record of the testimony given</p> <p>by the witness;</p> <p>That the original deposition transcript was</p> <p>delivered to October 17, 2024;</p> <p>That the copy of this certificate was served</p> <p>on all parties and/or the witness shown herein on</p>	

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,)	
)	
Plaintiff,)	
)	
VS.)	CIVIL ACTION
)	
LAURA WRIGHT, ET AL.)	NO.: 4:21-cv-00033-ALM
)	
Defendants.)	
)	
)	

ORAL AND VIDEOTAPED DEPOSITION OF

STEPHEN SLOTTOW, PhD

NOVEMBER 7, 2024

ORAL AND VIDEOTAPED DEPOSITION OF STEPHEN SLOTTOW, PhD, produced as a witness at the instance of the DEFENDANTS, and duly sworn, was taken in the above-styled and numbered cause on November 7, 2024, from 8:31 a.m. to 4:41 p.m., via Zoom teleconference before Vanessa J. Theisen, CSR in and for the State of Texas, and RPR, reported by machine shorthand, at the University of North Texas System, 801 North Texas Boulevard, Gateway Suite #340, Denton, Texas 76201, pursuant to the Federal Rules of Civil Procedure and any provisions stated on the record or attached hereto.

<p>26</p> <p>1 opportunity given for a response.</p> <p>2 Usually at a plenary address there's</p> <p>3 some room for questions and responses afterwards.</p> <p>4 But this plenary address, since he was one of, I</p> <p>5 think, three or four people who was talking on</p> <p>6 different topics, there were no question-and-answer</p> <p>7 periods.</p> <p>8 And then, very unusually, there was</p> <p>9 no -- there were no articles. There was no response</p> <p>10 in the journals. There was nothing. There was no</p> <p>11 opportunity to give any response. So the Journal of</p> <p>12 Schenkerian Studies decided that we would post a</p> <p>13 response and solicit articles from music theorists,</p> <p>14 including us, Dr. Jackson and myself, whoever wanted</p> <p>15 to respond.</p> <p>16 This led to -- we were -- since Ewell</p> <p>17 was accusing Heinrich Schenker of being a racist and</p> <p>18 that his racism was affecting his music theory,</p> <p>19 therefore, he was promulgating a racist music theory,</p> <p>20 and it was certainly the kiss of death to be in any</p> <p>21 way associated with racism, the school was terribly,</p> <p>22 terribly embarrassed and then afraid of bad publicity</p> <p>23 and reacted to that. That's what I mean.</p> <p>24 Q. Who at the school was -- reacted, as you</p> <p>25 say?</p>	<p>28</p> <p>1 Q. Do you think the college's reputation was</p> <p>2 damaged by the journal?</p> <p>3 A. I don't know. If music theory -- the</p> <p>4 division of music history and ethnomusicology, they</p> <p>5 were certainly on the receiving end of a lot of</p> <p>6 disapproval, so they certainly thought they were.</p> <p>7 Perhaps their reputation was damaged by those who</p> <p>8 were outraged that we would criticize Philip Ewell's</p> <p>9 opinions.</p> <p>10 Q. Who are you talking about when you say, "by</p> <p>11 those who were outraged that you would criticize</p> <p>12 Philip Ewell's opinions"?</p> <p>13 A. Music theorists, musicologists, people</p> <p>14 like -- people like -- people who would -- wrote</p> <p>15 blogs on music.</p> <p>16 If you look on YouTube, there is an</p> <p>17 awful lot of support for Ewell's views, and, mixed</p> <p>18 with that, would be attacks on Dr. Jackson, to some</p> <p>19 extent me, and sort of by reflection, on the music</p> <p>20 theory department of UNT -- not department -- area,</p> <p>21 yes. It was a big kerfuffle, yes.</p> <p>22 Q. And so was this coming from outside of UNT,</p> <p>23 inside of UNT?</p> <p>24 A. Well, it was certainly coming from outside</p> <p>25 of UNT, but it was coming from inside UNT also,</p>
<p>27</p> <p>1 A. Well, I know that Dr. Brand did and the dean</p> <p>2 did. And beyond that, I don't know for certain.</p> <p>3 Q. How do you know that Dr. Brand and the dean</p> <p>4 did?</p> <p>5 A. Because it was -- as I said, it was</p> <p>6 Dr. Brand, with consultation from the dean, who told</p> <p>7 us that we would no longer be handling the journal</p> <p>8 and the center.</p> <p>9 Q. He told you that?</p> <p>10 A. Well, he told Tim -- he told Dr. Jackson</p> <p>11 that, I think. I don't think he told me directly,</p> <p>12 and I got it from Dr. Jackson, certainly.</p> <p>13 Q. Okay. So you said Dr. Brand and the dean at</p> <p>14 the time. Was the dean John Richmond by chance?</p> <p>15 A. I don't -- I'm not sure if the dean -- if it</p> <p>16 was Richmond or Scott. I -- for some reason I think</p> <p>17 it was Richmond, but I'm not entirely sure. I think</p> <p>18 it was John Richmond.</p> <p>19 Q. Do you think they had reason to be</p> <p>20 embarrassed?</p> <p>21 A. Well, administrators are always terribly</p> <p>22 concerned with the reputation of their programs and</p> <p>23 the schools, and they're very sensitive to bad</p> <p>24 publicity, so they probably did. We were certainly</p> <p>25 getting plenty of bad publicity.</p>	<p>29</p> <p>1 because a petition was put together by the majority</p> <p>2 of UNT -- well, of faculty of the division of music</p> <p>3 history, music theory, and ethnomusicology</p> <p>4 attacking -- and also a separate petition by GAMuT,</p> <p>5 which is a graduate student organization of the</p> <p>6 division, attacking the -- criticizing the journal</p> <p>7 and criticizing Dr. Jackson, in particular, of</p> <p>8 essentially being a racist. And I think the student</p> <p>9 petition demanded his ouster from the university.</p> <p>10 And a lot of the music theory facul --</p> <p>11 the music theory and history -- well, the faculty of</p> <p>12 the division signed this -- not everyone did. And</p> <p>13 all of those people are now defendants in</p> <p>14 Dr. Jackson's suit. Well, all of the faculty and one</p> <p>15 student who's no longer a student at UNT. She's at</p> <p>16 Yale.</p> <p>17 Q. Uh-huh.</p> <p>18 A. What was the question?</p> <p>19 Q. I'm sorry, I don't recall either.</p> <p>20 MS. QUIMBY: Court reporter, could you</p> <p>21 please read it back?</p> <p>22 THE REPORTER: Yes, give me just a</p> <p>23 second.</p> <p>24 MS. QUIMBY: Yes, thank you.</p> <p>25 THE REPORTER: "And so was this coming</p>

<p>34</p> <p>1 silence for a long time -- after Ewell's SMT address 2 and the article based on it that appeared in Music 3 Theory Online, and I think the actual address he gave 4 verbatim also appeared in, I think, Music Theory 5 Spectrum. I'm not sure which one appeared in which. 6 Q. Did that -- did the verbatim publishing of 7 his speech and the publishing of his paper occur 8 before or after Volume 12 was published? 9 A. I think it occurred after. We had a 10 recording of the speech, and we transcribed the 11 recording and were responding to that. 12 Somewhere along the line an article 13 based and expanding his SMT talk appeared in either 14 Journal -- either Music Theory Spectrum or Music 15 Theory Online. I don't think that was out -- I don't 16 think that was published yet when this came out, but 17 I might be wrong. Yeah. 18 Q. When you published Volume 12, were you aware 19 that those were forthcoming? 20 A. I was aware that there was an article 21 expanding the talk that was forthcoming, yes. 22 Q. Did you consider waiting until that was 23 published to publish the responses to his talk? 24 A. We might have, but I don't think we 25 considered it very much. We felt that some sort of a</p>	<p>36</p> <p>1 an Exhibit 1, so let's mark that as Exhibit 2. 2 MS. QUIMBY: I'm sorry, this will be 3 Exhibit 2. 4 MR. ALLEN: Exhibit 2, right? Exhibit 1 5 is the full -- 6 MS. QUIMBY: You can hang onto that. 7 MR. ALLEN: -- print copy of the Volume 8 12. 9 THE WITNESS: You might want to change 10 the number. 11 MS. QUIMBY: Actually, the Exhibit 1, is 12 that the full volume? 13 MR. ALLEN: Which he referred to in the 14 course of the deposition, yes. 15 (Exhibit 2 marked.) 16 Q. (BY MS. QUIMBY) Dr. Slottow, I'll have you 17 just take a look at that while I'm putting this in 18 the Zoom chat. 19 A. Okay. 20 MS. QUIMBY: Mike, do you see that there 21 in the chat? 22 MR. ALLEN: I just did get it, yep. 23 MS. QUIMBY: Would you prefer that I 24 also share -- I don't know -- now I'm getting 25 feedback.</p>
<p>35</p> <p>1 response to the talk, which was -- I mean, it's the 2 main -- it's the annual meeting of the major 3 professional society for music theory with a huge 4 attendance and huge publicity. It had been followed 5 by this very strange vacuum of no response. I think 6 we felt that it was more important to have some 7 response out there. At least that's my recollection. 8 Q. Okay. Back to the student who has been sued 9 in this lawsuit, Rachel Gain. Do you know her? 10 A. Not well. She was a student in a class of 11 mine. Well, I didn't know her personally outside of 12 that. 13 Q. Okay. If you will bear with me a moment, I 14 have an exhibit I want to show you. It is part of 15 the Journal of Schenkerian Studies, which you have 16 there in front of you. 17 MR. ALLEN: Is it part of Volume 12? 18 MS. QUIMBY: Yes, I'm sorry. 19 MR. ALLEN: Uh-huh. 20 MS. QUIMBY: Okay. I'm marking this as 21 Exhibit 1, and I'll share that with you momentarily, 22 Mike, in the chat. 23 MR. ALLEN: I'm not trying to hasten the 24 process. 25 THE REPORTER: I think we already have</p>	<p>37</p> <p>1 MR. ALLEN: We just got an echo. Did 2 you hear that? 3 MS. QUIMBY: Yeah, for some reason my 4 laptop audio turned on. 5 MR. ALLEN: So this will be Exhibit 2, 6 sorry, for the record? 7 MS. QUIMBY: Yes. Are you okay to just 8 view it -- download it and pull it up that way? 9 MR. ALLEN: Yes, that's perfectly fine. 10 I can see it here, yeah. 11 MS. QUIMBY: Okay. 12 Q. (BY MS. QUIMBY) Okay, Dr. Slottow. Have 13 you had a chance to look at this? 14 A. Yeah. 15 Q. What is it? 16 A. Well, it's the list of -- the first page is 17 a list of the editorial board, the editor, assistant 18 editor, advisory board. The second is information 19 about the journal with phone numbers and addresses 20 and fax numbers. Then there is the table of 21 contents. That's it. 22 Q. Okay. And to your understanding, this is 23 from Volume 12, correct? 24 A. Yes. 25 Q. Okay. So you're listed there both on the</p>

<p>38</p> <p>1 editorial board and as the -- part of the advisory 2 board, correct? 3 A. I seem to be, yes. 4 Q. Can you explain to me the -- your role on 5 the editorial board first? 6 A. Well, the editorial board was just a whole 7 group of mainly prominent Schenkerian scholars, 8 who -- they didn't do much. They weren't consulted 9 much. But they were there to -- they could provide 10 some responses to the direction and actions of the 11 journal. They were partly there for prestige. I'm 12 not sure why I'm on there, actually. 13 That's some of the people there, such as 14 L. Poundie Burstein, Allen Cadwallader, David Beach, 15 Charles Burkhardt, Carl Schachter were very prominent 16 -- were and are very prominent scholars. The 17 advisory board are people who were actually in charge 18 of the journal. 19 Q. Okay. I'm going to ask you more about that 20 in a moment. But you said the editorial board, they 21 weren't consulted on much. Were they consulted at 22 all? 23 A. Well, they certainly weighed in after Volume 24 12 came out. In fact, a number of them resigned. 25 Q. Do you recall who resigned?</p>	<p>40</p> <p>1 A. No, no. Even though I was officially listed 2 as codirector, something like that. I think -- I 3 think in reality Dr. Jackson was the motive force and 4 the main director of the center. I mean, it was his 5 project from the start. 6 Q. Uh-huh. 7 A. So I viewed myself as sort of -- my role was 8 secondary to his. 9 Q. And I think you described earlier that the 10 center or at least the journal was created about the 11 time that you started? 12 A. Yeah, because Volume 1 -- I was involved in 13 Volume 1, so I think they had the idea of the 14 journal, and part of my role was to help make it 15 real. 16 Q. Uh-huh. Did Dr. Jackson create both the 17 center and the journal? 18 A. Well, he certainly created the center. I 19 mean, because it was already there -- 20 Q. Uh-huh. 21 A. -- when I came in. The journal was an idea 22 that was to be one of the activities of the center. 23 But it -- it had not been actualized. 24 Q. Okay. How and when did it become 25 actualized, if you recall?</p>
<p>39</p> <p>1 A. L. Poundie Burstein resigned -- 2 Q. Uh-huh. 3 A. -- for sure. Frank Samarotto resigned. 4 Diego Cubero probably resigned. Ellen Bakulina, I 5 think, resigned. Mark Anson-Cartwright may have done 6 so, yes. 7 Q. What were they -- so they weren't -- so you 8 said they were consulted after Volume 12 was 9 published, correct? 10 A. Well, they weren't -- 11 Q. Or they weighed in, I think you said. 12 A. They weighed in. 13 THE REPORTER: Okay. Hang on. I can't 14 get your answer and -- okay. 15 THE WITNESS: What? 16 MS. QUIMBY: We were talking over each 17 other, so the court reporter is just reminding us to 18 not do that. That's my fault. Thank you. 19 A. They weighed in. 20 Q. (BY MS. QUIMBY) Okay. 21 A. Now, I don't know whether Dr. Jackson 22 consulted with them about the idea of soliciting 23 articles in response to Ewell's address or not. I 24 can't recall. 25 Q. Did you consult with them?</p>	<p>41</p> <p>1 A. Well, it would have been shortly after I 2 joined. So that would probably be around 2002, 2003. 3 I don't know what date the first volume came out. I 4 have it at home, but I didn't think to bring it. 5 Actually, I should be able to tell you. 6 That's interesting. Volume 1 actually came out in 7 fall 2005. So it was later than I thought. 8 Q. Okay. Back to this Exhibit 2 here. Can you 9 describe your role as an advisory board member? 10 A. It's hard to remember specifics after some 11 years. I was -- I was involved in decisions of the 12 center. For instance, the decision to -- I was 13 certainly involved in soliciting articles and reviews 14 for the journal. I was certainly involved in the 15 idea of putting together a Ewell, Philip Ewell, 16 special edition. 17 I was involved in policy. Since I had 18 entered UNT, part of my job was to do with the 19 center, specifically with the journal. I was 20 probably more involved in things that -- issues 21 having to do with the journal than, say, putting on 22 concerts or making CDs. Dr. Jackson tended to be 23 much more involved in those than I was. 24 Q. The concerts and the CDs? 25 A. Yeah.</p>

<p style="text-align: right;">74</p> <p>1 Q. -- responses?</p> <p>2 A. No, no.</p> <p>3 Q. Did you read them at the time?</p> <p>4 A. No, I looked -- you know, I would -- some of</p> <p>5 them I read completely. Some of them I just sort of</p> <p>6 browsed through. Some of them were very short. Some</p> <p>7 are much longer.</p> <p>8 Q. Was it expected or were you expected to read</p> <p>9 all of them before the volume was published?</p> <p>10 A. It was expected that I look at them. I'm</p> <p>11 not sure it was expected that I read every word.</p> <p>12 Q. Did you read any of them in their entirety?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Did you provide feedback on any of them?</p> <p>15 A. No, I wasn't asked to. Well, yes, I did,</p> <p>16 actually. I -- well, both Benjamin Graf and I</p> <p>17 provided a lot of feedback on Dr. Jackson's, which is</p> <p>18 viewed as somewhat problematical.</p> <p>19 Q. What is viewed as somewhat problematical,</p> <p>20 the...</p> <p>21 A. Well, I think what we found problematical is</p> <p>22 there were a lot of derogatory -- as I recall, there</p> <p>23 were a lot of derogatory references to</p> <p>24 ethnomusicologists and ethnomusicology. And</p> <p>25 we worked hard at getting --</p>	<p style="text-align: right;">76</p> <p>1 like musicology plus anthropology. So there are</p> <p>2 anthropologically-oriented ethnomusicologists and --</p> <p>3 well, most of them are, and some which are more music</p> <p>4 theory, musicology oriented. But the subject matter</p> <p>5 tends to be different from music theory and</p> <p>6 musicology, per se.</p> <p>7 But all this is getting blurred because</p> <p>8 you find music theorists doing nonwestern music or</p> <p>9 nonwestern classical music. So all these boundaries</p> <p>10 are -- have shifted quite a lot.</p> <p>11 Q. Okay. So what was written in Dr. Jackson's</p> <p>12 article about ethnomusicology that you're describing</p> <p>13 that you recall?</p> <p>14 A. I can't really recall. It's just that there</p> <p>15 were a lot of -- there seemed to be a lot of</p> <p>16 derogatory references to it. And my recollection is</p> <p>17 that Benjamin and I were afraid that these would be</p> <p>18 taken as, well, criticisms of ethnomusicology and</p> <p>19 ethnomusicologists, and they weren't necessary, and</p> <p>20 we didn't want them in there.</p> <p>21 I'm not sure how accurate my</p> <p>22 recollection is, but that is what it is.</p> <p>23 Q. Were you requesting or recommending changes</p> <p>24 to the substance of the article?</p> <p>25 A. Yeah, we wanted those to be tempered down or</p>
<p style="text-align: right;">75</p> <p>1 THE REPORTER: I'm sorry, to what?</p> <p>2 "There was a lot of derogatory references to"?</p> <p>3 THE WITNESS: Ethnomusicology.</p> <p>4 THE REPORTER: Ethno?</p> <p>5 THE WITNESS: It's one word,</p> <p>6 ethnomusicology.</p> <p>7 THE REPORTER: Thank you.</p> <p>8 A. So we certainly worked a lot on that one.</p> <p>9 Of course, I worked a lot on my own article. I think</p> <p>10 those were the only ones that I had some critiques</p> <p>11 of.</p> <p>12 Q. What is ethnomusicology?</p> <p>13 A. Ethnomusicology began as sort of the</p> <p>14 academic formal study of nonwestern music. So these</p> <p>15 none -- like -- or nonwestern classical musics. So</p> <p>16 music of Africa, music of Indonesia or, within North</p> <p>17 America, you might say pop music or American Indian</p> <p>18 music or -- especially when it started, musicology,</p> <p>19 music theory were mainly sort of western classical</p> <p>20 music. So musics outside that and especially musics</p> <p>21 from outside of European culture, you might say,</p> <p>22 were -- had this -- fell under the catch-all</p> <p>23 ethnomusicology.</p> <p>24 In practice, it was sort of a</p> <p>25 combination and remains so of formal music study,</p>	<p style="text-align: right;">77</p> <p>1 removed. I think in the end they were removed for</p> <p>2 the most part.</p> <p>3 Q. Would you describe that as censorship?</p> <p>4 A. No. Because we were -- when you send an</p> <p>5 article out for review and changes and suggestions,</p> <p>6 that's not censorship. That's the function of the</p> <p>7 reviewer.</p> <p>8 When -- so we were doing essentially the</p> <p>9 same function. We had no -- we had no power to make</p> <p>10 those changes, just to make our case to Dr. Jackson.</p> <p>11 We thought it was a -- they were a bad idea, you</p> <p>12 know, those -- those things.</p> <p>13 Q. I think you just described the peer review</p> <p>14 process of sending things out, correct?</p> <p>15 A. Yes, but the -- if we're asked to read over</p> <p>16 an article -- I think Dr. Jackson asked us to read</p> <p>17 over his article and give responses -- then we would</p> <p>18 give responses.</p> <p>19 Q. In the peer review process, were substantive</p> <p>20 changes recommended?</p> <p>21 A. Oh, I don't know, because --</p> <p>22 MR. ALLEN: Objection.</p> <p>23 A. -- I was -- the editor was the one who</p> <p>24 primarily read the peer reviews.</p> <p>25 Q. (BY MS. QUIMBY) Uh-huh.</p>

<p>78</p> <p>1 A. We were only called in when the editor felt 2 it was necessary, which was -- didn't happen, or it 3 didn't happen very much. So I don't know. 4 Q. In your experience of engaging in the peer 5 review process of your own articles, were you -- did 6 you engage in substantive changes in that process 7 ever? 8 A. Well, I was asked to at times. Often the 9 author can argue against changes -- 10 Q. Uh-huh. 11 A. -- that the peer reviewer or some of these 12 peer reviewers want to make. 13 In my case, I have done that, because 14 especially if you're doing an analytical article, the 15 peer reviewer may have a different interpretation of 16 the piece than you have. And if you incorporate too 17 many of their changes, your entire argument, your 18 entire interpretation might be gone; you've simply 19 substituted it with theirs. 20 Q. Uh-huh. 21 A. It's not your article anymore. So I have 22 argued successfully for the most part on a number of 23 occasions. 24 Q. Is peer review a form of censorship? 25 A. No, no. It's -- in fact, it's viewed as a</p>	<p>80</p> <p>1 to certain people that they submit responses or if I 2 don't know, I assume and strongly suspect so. 3 Q. And you said Ben Graf also may have provided 4 feedback on Dr. Jackson's article? 5 A. He did. 6 Q. Okay. 7 A. We both did. 8 Q. And I'm sorry if you may have answered this, 9 but do you recall any other feedback you provided 10 besides the feedback about ethnomusicology or 11 musicologists? 12 A. I don't recall that there was more. I mean, 13 it took some work to get those done, because 14 Dr. Jackson was resistant to making those changes, so 15 we had to apply a certain amount of persuasion. 16 As in my own case, suggesting changes 17 doesn't equate to the author making those changes. 18 Q. In the peer review process I think you 19 described as -- is it required that suggested changes 20 be adopted? 21 A. That depends on the journal and the 22 editorial policy. If you're lucky, the editor -- the 23 editor of the journal will permit you to make a plea 24 of conscience and say, "If I make these changes, it's 25 no longer my article; it's their article," and let</p>
<p>79</p> <p>1 prestigious thing. An article that appears in a 2 peer-reviewed journal has more -- a higher reputation 3 than an article that does not because in the article, 4 if it's not, the idea is that just any old thing can 5 get published in the journal. It's not subject to 6 inspection from someone who is a specialist. 7 Q. So I want to -- can you describe how the 8 articles that were published in the symposium were 9 chosen? I understand you may not have read them all. 10 A. No, I really can't because I wasn't involved 11 in that. 12 Q. Did you -- were you involved in soliciting 13 responses? 14 A. No. 15 Q. Who -- did anyone solicit responses? 16 A. The editor, I think, solicited responses. I 17 think Dr. Jackson also solicited responses. 18 Q. When we're talking about the editor, are we 19 talking about Ben Graf or Levi Walls or both? 20 A. I would say Ben Graf. I mean, Levi might 21 have written the letter, but I would suspect that, 22 being a -- Levi, being sort of an apprenticeship 23 learn-on-the-job role, that anything of that sort 24 would have come more from Ben. 25 But I know that Dr. Jackson did suggest</p>	<p>81</p> <p>1 you -- let you publish with that disagreement. 2 But some journals I think will say, "You 3 have to implement these changes or we won't publish 4 your article," and then you -- that's that. 5 Q. Was it a policy of the JSS to require 6 changes suggested in the peer review process to be 7 adopted? 8 A. I don't know because that was the editor's 9 job, and the editor handled it seemingly very well, 10 and we -- he seldom felt it was necessary to consult 11 us. 12 Q. So was it -- was there a written policy 13 addressing that one way or the other? 14 A. Oh, I'm sure there was, and that would be up 15 to the discretion of the editor. 16 The editor had considerable power in the 17 journal. It wasn't just a matter of doing the work; 18 it was also making a lot of the decisions. If the 19 editor saw fit to consult Dr. Jackson and I or if we 20 felt we really needed to consult with the editor, 21 that would happen. But it would not automatically 22 happen. 23 Q. Is that true for -- that the editor had a 24 lot of power, is that true for the symposium of 25 Volume 12?</p>

<p style="text-align: right;">82</p> <p>1 A. Yeah, I would say so. I think it's</p> <p>2 generally the case that the editor is the one who</p> <p>3 makes most of the decisions.</p> <p>4 Q. Do you recall telling the ad hoc panel that</p> <p>5 you and Dr. Jackson kind of took over on the</p> <p>6 symposium part of the Volume 12?</p> <p>7 A. Took over? What do you mean "took over"?</p> <p>8 Q. I believe those are words that you used.</p> <p>9 A. I wonder what I meant by that.</p> <p>10 MR. ALLEN: Objection.</p> <p>11 A. I don't think we took over at all.</p> <p>12 Q. (BY MS. QUIMBY) Do you recall telling the</p> <p>13 ad hoc panel that?</p> <p>14 A. I don't --</p> <p>15 MR. ALLEN: Objection.</p> <p>16 A. I don't recall. I mean, we do have notes</p> <p>17 from the ad hoc panel, which I've looked over, but</p> <p>18 not thoroughly. I don't know if it's -- I don't</p> <p>19 think something like that is mentioned, but I'm not</p> <p>20 sure.</p> <p>21 Q. Was there anything about -- strike that.</p> <p>22 Was there ever a time before publishing</p> <p>23 or before Volume 12 was published that the editorship</p> <p>24 of the journal or the structure of it was discussed</p> <p>25 or discussed that it needed to be changed?</p>	<p style="text-align: right;">84</p> <p>1 A. No.</p> <p>2 Q. Okay.</p> <p>3 A. I've met him because Ellen -- well, Ellen</p> <p>4 Bakulina, who was on our faculty for some years, just</p> <p>5 left to go to McGill, was a friend of his. I don't</p> <p>6 think I've ever talked to him. So I guess the answer</p> <p>7 is no.</p> <p>8 Q. Were you involved in the creation of the</p> <p>9 call for papers for the symposium issue?</p> <p>10 A. No. Well, no, no. The editor and the</p> <p>11 assistant editor came up with that. I wasn't -- I</p> <p>12 saw it, but I wasn't involved in it.</p> <p>13 Q. For the sym -- go ahead.</p> <p>14 A. I guess I could have been involved in it if</p> <p>15 I had an objection to it.</p> <p>16 Q. Do you recall having an objection to it?</p> <p>17 A. No, no. I mean, I recall that I did not</p> <p>18 have an objection to it.</p> <p>19 Q. Do you recall how many responses or -- were</p> <p>20 received?</p> <p>21 A. I don't know because they would come in to</p> <p>22 the editor. They wouldn't come in to either</p> <p>23 Dr. Jackson or to me.</p> <p>24 Q. Were all of the responses that you received</p> <p>25 published?</p>
<p style="text-align: right;">83</p> <p>1 A. No.</p> <p>2 MR. ALLEN: Objection.</p> <p>3 A. I mean, we were in a period of transition as</p> <p>4 it was.</p> <p>5 Q. (BY MS. QUIMBY) What do you mean by that?</p> <p>6 A. Well, as I said, Ben Graf was the editor,</p> <p>7 but Levi was being groomed, so to speak, as the next</p> <p>8 editor; therefore, we have "assistant editor" on the</p> <p>9 masthead.</p> <p>10 THE REPORTER: I'm sorry, "an assistant</p> <p>11 editor on the"?</p> <p>12 THE WITNESS: The masthead.</p> <p>13 THE REPORTER: Masthead, thank you.</p> <p>14 Q. (BY MS. QUIMBY) Before Volume 12, though,</p> <p>15 was it ever discussed that the structure -- the</p> <p>16 editorial structure be changed?</p> <p>17 A. No. That was the model from the beginning.</p> <p>18 It seemed to work very well. Ben Graf was, as Colin</p> <p>19 Davis had been before him, superb at his job. We had</p> <p>20 nothing to complain about. There didn't seem to be</p> <p>21 any reason -- he was not complaining. Didn't seem to</p> <p>22 be any reason to change that. And it was part of the</p> <p>23 conception of the journal from the outset.</p> <p>24 Q. Switching gears a little bit, do you know</p> <p>25 Philip Ewell personally?</p>	<p style="text-align: right;">85</p> <p>1 A. I don't know. That would be a good question</p> <p>2 to ask Levi Walls or Ben Graf.</p> <p>3 Q. Do you recall the -- that there was a</p> <p>4 deadline in the call for papers?</p> <p>5 A. There was a deadline, and it was a close</p> <p>6 deadline, as I recall. A little too close for</p> <p>7 comfort. I know that some people complained about</p> <p>8 it. We weren't giving them enough time.</p> <p>9 Q. What was too close for comfort about that?</p> <p>10 A. I don't re -- I think it was three weeks or</p> <p>11 something like that. It was just -- that's very</p> <p>12 short. I think it's mainly because we were looking</p> <p>13 at a publication deadline from UNT Press. But, yeah,</p> <p>14 there was definitely a deadline. There has to be a</p> <p>15 deadline. It's unworkable if there's not.</p> <p>16 Q. You said that it was about three weeks that</p> <p>17 you recall?</p> <p>18 A. I think so, but I'm not sure.</p> <p>19 Q. How long --</p> <p>20 A. That's just an impression.</p> <p>21 Q. How long would a normal deadline be?</p> <p>22 A. Well, normally -- normally, a journal is not</p> <p>23 going to have a deadline. I mean -- well, I don't</p> <p>24 know.</p> <p>25 Usually, with journals, people send in</p>

<p>90</p> <p>1 and he was asking about editorial policies and 2 etcetera.</p> <p>3 Q. Were you truthful in your interview?</p> <p>4 A. Yeah, as -- to my knowledge, yeah.</p> <p>5 Q. Do you recall describing the symposium as a 6 visceral reaction to the Ewell -- Dr. Ewell's talk?</p> <p>7 A. Visceral reaction? Well, the notes that 8 were taken -- I see that there were notes taken on 9 the interview. They were certainly not written by 10 me.</p> <p>11 Q. Uh-huh.</p> <p>12 A. And they were certainly not language that I 13 would usually use. I don't think I would say 14 "visceral reaction" because they weren't.</p> <p>15 Q. How would you describe it, then?</p> <p>16 A. Well, it's a reaction to Ewell's allegations 17 involving Heinrich Schenker and Schenkerian analysis. 18 Visceral implies a sort of like a scream of pain from 19 the guts. Hopefully they weren't that; they were 20 more considered. And, besides, not all of them were 21 critical of Dr. Ewell either. So I would not 22 describe it as a visceral reaction.</p> <p>23 I didn't -- I don't think I would use 24 those words, but who knows? It's possible.</p> <p>25 Q. Do you recall expressing -- and maybe not in</p>	<p>92</p> <p>1 Dr. Ewell would be looked upon as a victim and we 2 would be looked upon as oppressors and racists 3 because I thought a lot of what Ewell was saying was 4 outrageous and ill-founded. So I was taken aback by 5 the -- and had I anticipated such a reaction, I would 6 have counseled a great deal more caution in what the 7 journal did.</p> <p>8 Q. Would you have read all of the responses 9 before they were published?</p> <p>10 A. Probably, but what I probably would have 11 done differently was that I -- in retrospect, I would 12 have counseled that we ask Dr. Ewell to participate 13 as a respondent, and I probably would have counseled 14 that in this case everything be peer-reviewed. But I 15 did not anticipate that -- that response.</p> <p>16 Q. You just mentioned Dr. Ewell, you would have 17 invited him. So was he invited into the process at 18 all?</p> <p>19 A. No. Well, he was invited only to the extent 20 that he could have submitted --</p> <p>21 Q. Uh-huh.</p> <p>22 A. -- an article of his own, and -- like anyone 23 else. He was certainly aware of the call for papers, 24 but he wasn't invited as a respondent to the papers.</p> <p>25 Q. A respondent to the responses. Is that --</p>
<p>91</p> <p>1 these words, but that more caution should have been 2 exercised in publishing --</p> <p>3 A. Yes, I did --</p> <p>4 Q. -- this symposium?</p> <p>5 A. -- because I did not anticipate the 6 reaction. It took me by surprise. I thought that a 7 lot of what Dr. Ewell was saying was outrageous and 8 hypocritical because he said, "I hope we can save 9 Schenkerian analysis."</p> <p>10 Save Schenkerian analysis from what?</p> <p>11 Well, from Dr. Ewell's attacks. That's from what. 12 It didn't need to be saved before.</p> <p>13 So to take this sort of sanctimonious -- 14 "I'm only here to save Schenkerian analysis from its 15 enemies of whom I am the main person," I thought it 16 was a little hard to swallow and of their -- and so I 17 think hypocritical is the word I would use for some 18 of what he said.</p> <p>19 What was the question?</p> <p>20 Q. I don't -- I asked if you recall expressing 21 that more caution should have been --</p> <p>22 A. Oh, yes.</p> <p>23 Q. -- exercised?</p> <p>24 A. Yes. I was -- I went off on a tangent. 25 I did not anticipate the reaction that</p>	<p>93</p> <p>1 A. Yeah.</p> <p>2 Q. Why would he have responded to his own 3 paper?</p> <p>4 A. Well, it does seem sort of illogical when 5 you put it that way. But that's the extent, that he 6 was not invited in any special role at all.</p> <p>7 In retrospect, after the response to the 8 journal, he probably -- I would feel -- I don't know 9 if Dr. Jackson would, but I would feel that that 10 would have been the better approach and more cautious 11 approach.</p> <p>12 Q. So we talked about that Benjamin Graf, you 13 think he resigned as the editor. What about Levi 14 Walls? Did he resign, or do you know what happened 15 to that role?</p> <p>16 A. Levi was attacked -- Levi was attacked, as 17 was Dr. Jackson, and to some extent, me, as being the 18 assistant editor and the one who signed, I think, the 19 call for papers. And then I think the -- there was 20 something here that was sort of a little introduction 21 to the symposium that he might have signed saying 22 something about, "We welcome," you know, "all 23 opinions."</p> <p>24 Oh, yes. This introduction to the 25 symposium, he wrote that, though he didn't sign it.</p>

<p>94</p> <p>1 He came in for a lot of criticism. As a graduate 2 student, he was afraid that he would be -- his career 3 would be adversely affected or ruined entirely, and 4 he -- well, he did a number of things. He went 5 online and kind of said he was bullied into doing 6 certain things, I think, by Dr. Jackson, or made to 7 do certain things or felt he had no choice, and he 8 resigned as editor in chief in an attempt to 9 forestall further negative reaction which could hurt 10 his career.</p> <p>11 Q. Do you think he was justified in being 12 afraid for his career?</p> <p>13 A. Oh, yeah, sure. Definitely. And look what 14 happened to Dr. Jackson. All of that as a result of 15 this issue and of his article in this issue.</p> <p>16 I was attacked, certainly have been 17 attacked in Ewell's recent book. And since -- in the 18 United States especially, not so much in Europe or 19 Britain, anyone accused of racism in the academic 20 circles is sort of assumed guilty. And -- yeah, he 21 had reason to be afraid, certainly.</p> <p>22 Q. So he resigned, as I understand and you have 23 testified, and Dr. Graf resigned. So effectively 24 there's no editor?</p> <p>25 A. Well, at that point, I don't know if there</p>	<p>96</p> <p>1 been sort of his project, fundamentally.</p> <p>2 Q. So if there's no editor -- let's just say, 3 for example, the journal still exists.</p> <p>4 MR. ALLEN: Objection.</p> <p>5 Q. (BY MS. QUIMBY) Could it be -- could it 6 publish anything without editors?</p> <p>7 A. No.</p> <p>8 Q. Okay.</p> <p>9 A. I mean, not with any degree of repute. No 10 one would take it seriously.</p> <p>11 Q. Do you think Volume 12 or the symposium 12 damaged UNT's reputation?</p> <p>13 A. I don't know, but there's a good chance of 14 it. I mean, certainly UNT was reacting to the 15 possibility that it would.</p> <p>16 Q. Are you -- so Levi Walls' resignation, are 17 you -- did he do that on his own accord, do you know?</p> <p>18 A. I'm sure he did it on his own accord. He 19 was trying to remove himself from a toxic situation 20 as much as he could.</p> <p>21 Levi was viewing himself very much as a 22 victim, I think, a victim of Dr. Jackson in 23 particular. And he was trying to -- and he was being 24 attacked and criticized by the -- certainly by the 25 online music theory community, and he was scared,</p>
<p>95</p> <p>1 was any journal or any center anymore. I'm not sure 2 exactly what happened first. But at a certain point 3 there was nothing left to be editor of.</p> <p>4 Q. Why do you say that?</p> <p>5 A. Because the journal was taken away from us 6 by the college. They tried, naively, to find someone 7 who would take the journal on, maybe someone from 8 another school. Of course -- well, I wasn't on the 9 search committee, but, evidently no one would touch 10 it with a 10-foot pole. It was radioactive at that 11 point.</p> <p>12 Q. What do you mean that it was taken away from 13 you?</p> <p>14 A. The journal was part of the center. The 15 center was part of the -- and the school said that we 16 were -- we could no longer publish the journal and 17 that the center is in abeyance.</p> <p>18 Q. And I think you testified earlier that your 19 knowledge of this is through Dr. Jackson, correct?</p> <p>20 A. Well, it was widely known. I mean, things 21 get out fast, but I don't recall what any of the 22 administration -- I don't think any of the 23 administration told me directly, because Dr. Jackson 24 was certainly viewed as sort of the main person 25 responsible for the center. It was -- it had always</p>	<p>97</p> <p>1 with reason.</p> <p>2 Q. Do you think he was wrong in being a victim 3 or feeling like a victim?</p> <p>4 A. No, he was -- well, of Dr. Jackson? I don't 5 think he was a victim of Dr. Jackson.</p> <p>6 Levi was -- Levi was not -- my 7 perception was that Levi was not very assertive. 8 Levi was slow to argue back. If he really felt 9 something was wrong, he might say something, but he 10 wouldn't stick to his guns. He felt very much 11 that -- in a subservient position, far more than any 12 of the previous editors had done. I mean, I don't 13 think that any of our previous editors felt 14 especially they had to take -- be subservient or feel 15 they had to do something which is against their 16 conscience.</p> <p>17 I don't think that Ben Graf felt that 18 way, but I think I read somewhere that he said he 19 did. Maybe in a deposition; I don't know. But that 20 wasn't my perception.</p> <p>21 But Levi did. He was not very -- he 22 felt he was -- his role was a subservient one.</p> <p>23 Q. So you described the committee that was put 24 together to find a new editor, correct, or you 25 mentioned that?</p>

<p style="text-align: right;">98</p> <p>1 A. I alluded to it, yeah. I wasn't part of it.</p> <p>2 Q. Uh-huh. Is there anything preventing you</p> <p>3 from applying to be the editor?</p> <p>4 A. The editor of what? There's nothing left.</p> <p>5 Q. Well, isn't the committee searching for an</p> <p>6 editor?</p> <p>7 A. Oh, that's -- that disbanded probably years</p> <p>8 ago.</p> <p>9 Q. Before it disbanded.</p> <p>10 A. Well, you don't apply to be. You're</p> <p>11 appointed to it, probably by the dean. You can't</p> <p>12 apply to be on it. You can, but it's not going to do</p> <p>13 anything.</p> <p>14 You don't volunteer to -- it was a</p> <p>15 search committee. You don't volunteer for search</p> <p>16 committees, or there's no reason to.</p> <p>17 Q. I meant apply for the position of editor.</p> <p>18 A. That would be a rather absurd thing to do</p> <p>19 because I had already been so involved in it, they</p> <p>20 would want a clean sweep.</p> <p>21 Q. Is it -- did they tell you that? Did they</p> <p>22 say you can't?</p> <p>23 A. No, but it's obvious.</p> <p>24 Q. How is it --</p> <p>25 A. It would be like Dr. Jackson applying to be</p>	<p style="text-align: right;">100</p> <p>1 Q. Why do you think it was associated with</p> <p>2 racism?</p> <p>3 A. Well, you looked at this exhibit, didn't</p> <p>4 you?</p> <p>5 Q. I'm asking you.</p> <p>6 MR. ALLEN: Can you state for the record</p> <p>7 which exhibit you're referring to, please?</p> <p>8 THE WITNESS: It says 3.</p> <p>9 MR. ALLEN: Thank you. And is that the</p> <p>10 faculty petition?</p> <p>11 THE WITNESS: Yes.</p> <p>12 A. "The forthcoming issue is replete with</p> <p>13 racial stereotyping and tropes and include personal</p> <p>14 attacks directed at Dr. Ewell." Yeah.</p> <p>15 MS. QUIMBY: Can you read back my</p> <p>16 question, please?</p> <p>17 THE REPORTER: The witness's mic is</p> <p>18 getting very, very quiet. Was it getting quiet for</p> <p>19 anyone else?</p> <p>20 MR. ALLEN: I'm good. I was having</p> <p>21 trouble hearing Mary, but I think it was the way she</p> <p>22 turned her head when she turned to you.</p> <p>23 THE REPORTER: Okay. Here's the</p> <p>24 question: "Why do you think it was associated with</p> <p>25 racism?"</p>
<p style="text-align: right;">99</p> <p>1 the editor of the journal or Ben Graf. I mean, the</p> <p>2 idea was to preserve the journal, but to disassociate</p> <p>3 it with anyone it had be associated with and maybe</p> <p>4 even hand it off to a different school. It didn't go</p> <p>5 anywhere.</p> <p>6 In any case, we weren't approached</p> <p>7 certainly. I mean, I guess there's nothing to</p> <p>8 prevent us from -- I mean, there was a public search.</p> <p>9 You know, "We're looking for someone to take over the</p> <p>10 editors of the journal," and I suppose Dr. Jackson or</p> <p>11 I or Ben could have written in, but it wouldn't have</p> <p>12 gotten to first base. I mean, you generally don't</p> <p>13 apply for things where you feel you have no choice of</p> <p>14 acceptance because that wasn't the reason it was</p> <p>15 being advertised.</p> <p>16 Evidently -- I mean, nothing came of it,</p> <p>17 and I don't know -- I wouldn't be surprised if no one</p> <p>18 applied, but I wouldn't know, because I wasn't on the</p> <p>19 search committee.</p> <p>20 Q. I think you described it as radioactive, the</p> <p>21 journal. What do you mean by that?</p> <p>22 A. The journal was now associated with racism</p> <p>23 and with acting unfairly to poor Dr. Ewell and</p> <p>24 deficient editorial practices, and it was just like</p> <p>25 this sort of radioactive turd.</p>	<p style="text-align: right;">101</p> <p>1 A. So, in addition to this, I mean, Ewell's</p> <p>2 contention was that Schenker was a racist, that his</p> <p>3 racism had infected his views (phonetic) of theory,</p> <p>4 which I deny, by the way, and that -- and then that</p> <p>5 the Journal of Schenkerian Studies, by criticizing</p> <p>6 Ewell, was racist in doing so.</p> <p>7 So each side is accusing the other of</p> <p>8 being racist for different reasons. In a sense, the</p> <p>9 Journal of Schenkerian Studies is being accused of</p> <p>10 being racist for criticizing Philip Ewell's</p> <p>11 accusations that Schenker was racist. So a lot of</p> <p>12 racism.</p> <p>13 Q. (BY MS. QUIMBY) Was the criticism of</p> <p>14 racism, did that come from other than just the</p> <p>15 faculty petition and the student petition as you've</p> <p>16 described them?</p> <p>17 A. Yeah, yeah.</p> <p>18 Q. Where else did it come from?</p> <p>19 A. Online chatter, and there was an SMT talk</p> <p>20 list where there was a lot -- or SMT discussion list.</p> <p>21 SMT being the Society for Music Theory.</p> <p>22 THE REPORTER: Okay. I need to pause.</p> <p>23 He's very, very quiet on my end.</p> <p>24 MR. ALLEN: They both are. I don't know</p> <p>25 what happened in that transition.</p>

<p>134</p> <p>1 article about black anti-Semitism --</p> <p>2 Q. Uh-huh.</p> <p>3 A. -- would certainly be construed as racist by</p> <p>4 some key people. I would not because I think it's a</p> <p>5 phenomena that exists.</p> <p>6 Q. Uh-huh. Did anyone actually take issue with</p> <p>7 its factual basis?</p> <p>8 A. Not to my -- well, not to my knowledge, no.</p> <p>9 Q. I believe Timothy Jackson also argued that</p> <p>10 black children are, on average, not exposed to the</p> <p>11 tradition of western classical music --</p> <p>12 A. I think --</p> <p>13 Q. -- in comparison to other groups of people</p> <p>14 in the United States?</p> <p>15 A. Yeah, I think he did say that.</p> <p>16 Q. And do you recall that being -- him being</p> <p>17 accused of being racist because he wrote that?</p> <p>18 A. I don't recall any specific instance, but</p> <p>19 it's a case where he well might be.</p> <p>20 Q. Has anyone, to your knowledge in the</p> <p>21 Schenker kerfuffle that you have identified, ever</p> <p>22 published any factual refutation of that assertion?</p> <p>23 A. No, I don't think that anyone has.</p> <p>24 Q. Do you know if it's in fact true?</p> <p>25 A. I don't know if it's true. I would assume</p>	<p>136</p> <p>1 A. Levi Walls I did not know that well. He was</p> <p>2 a student in my Schenker class.</p> <p>3 Q. Uh-huh.</p> <p>4 A. And then I had some contact with him when</p> <p>5 this issue was being put together, mainly emails. He</p> <p>6 would email Ben Graf and Tim Jackson and me --</p> <p>7 Q. Sure.</p> <p>8 A. -- and we would go back and forth, but that</p> <p>9 was about it.</p> <p>10 Q. Okay. And do you remember him ever</p> <p>11 expressing a view before the publication came out on</p> <p>12 the quality of Philip Ewell's scholarship?</p> <p>13 MS. QUIMBY: Objection. Form.</p> <p>14 A. No, no.</p> <p>15 Q. (BY MR. ALLEN) Okay. That's fine.</p> <p>16 Now, you -- I think you characterized</p> <p>17 Levi Walls -- and I'm not trying to put words in your</p> <p>18 mouth, but something of a weak person?</p> <p>19 A. Well, it's -- yeah, don't put words in my</p> <p>20 mouth.</p> <p>21 I wouldn't say -- he was -- he was not</p> <p>22 as assertive or as self-confident as the previous</p> <p>23 editors had been. And he was more inclined to feel</p> <p>24 that he had to do what -- most specifically, what</p> <p>25 Dr. Jackson told him to do, that that was his role.</p>
<p>135</p> <p>1 that Dr. Jackson has his own reasons for --</p> <p>2 Q. Okay.</p> <p>3 A. -- saying it, but I wouldn't care to defend</p> <p>4 that as a true or false assertion.</p> <p>5 Q. Okay. That's fine. But you don't know of</p> <p>6 anyone in the controversy that actually tried to</p> <p>7 refute with facts Timothy Jackson's argument that</p> <p>8 this is actually a cultural phenomenon in the United</p> <p>9 States?</p> <p>10 A. I don't know of anyone who has done that.</p> <p>11 But also, I made a conscious decision to stop</p> <p>12 involving myself at a certain point --</p> <p>13 Q. I understand.</p> <p>14 A. -- in reading the back-and-forth on it. So</p> <p>15 to my knowledge, no.</p> <p>16 Q. Thank you. You talked quite a bit in your</p> <p>17 testimony about Mr. Levi Walls and Benjamin Graf, the</p> <p>18 two editors of the Journal for Schenkerian Studies</p> <p>19 back in 2020, and I want to ask you if you worked at</p> <p>20 all with Levi Walls in the lead-up to the publication</p> <p>21 of the Volume 12 of the Journal of Schenkerian</p> <p>22 Studies?</p> <p>23 A. No. Benjamin Graf, yes. I mean, I've known</p> <p>24 him for a long time as a student and colleague.</p> <p>25 Q. Uh-huh.</p>	<p>137</p> <p>1 I don't think that Ben Graf or Colin</p> <p>2 or -- who was the first editor? The name escapes</p> <p>3 me -- really felt that way. They would argue back if</p> <p>4 they really felt --</p> <p>5 Q. Uh-huh.</p> <p>6 A. -- something was the wrong thing to do and</p> <p>7 they had a better idea.</p> <p>8 Levi would only argue to a certain</p> <p>9 extent, and then he would say, well -- and then he</p> <p>10 would stop. So he was more prone to viewing himself</p> <p>11 as a -- sort of a functionary under authority --</p> <p>12 Q. Uh-huh.</p> <p>13 A. -- than the previous editors were. And then</p> <p>14 he wasn't a full-fledged editor too. I mean, he was</p> <p>15 sort of an editor-in-training. So he was also under</p> <p>16 the authority of Benjamin Graf to some extent too.</p> <p>17 Q. Sure. And in your view --</p> <p>18 A. It was --</p> <p>19 Q. Sorry.</p> <p>20 A. It was an apprenticeship.</p> <p>21 Q. Okay. And in your view, was there a power</p> <p>22 differential between Benjamin Graf and Levi Walls?</p> <p>23 A. Well, there was, because Benjamin was the</p> <p>24 very experienced editor, and Levi was just coming in</p> <p>25 and learning the job. I don't think it was a</p>

<p style="text-align: right;">138</p> <p>1 problematic power issue -- power imbalance.</p> <p>2 Q. Okay.</p> <p>3 A. The power imbalance he felt between him and</p> <p>4 Timothy Jackson was a much more powerful and</p> <p>5 problematic one.</p> <p>6 Q. Well, why was it problematic?</p> <p>7 A. Because he felt -- I think he felt he was</p> <p>8 under Dr. Jackson's control, as I said, in a way the</p> <p>9 other editors did not and that --</p> <p>10 Q. Uh-huh.</p> <p>11 A. -- he had sort of had to do what Dr. Jackson</p> <p>12 said even if he disapproved of it. He would -- he</p> <p>13 would kowtow in a certain way.</p> <p>14 Q. And yet that didn't prevent him from</p> <p>15 condemning Professor Jackson in July of 2020, did it?</p> <p>16 A. Well, that was -- that was after the</p> <p>17 publication of the journal, right?</p> <p>18 Q. Yes.</p> <p>19 A. No, he -- you might say he turned on</p> <p>20 Dr. Jackson then because he felt that Dr. Jackson was</p> <p>21 instrumental in possibly destroying his career.</p> <p>22 Q. Do you think he feared Dr. Jackson or the</p> <p>23 larger community of society of music theory</p> <p>24 professors who were agitating against the journal at</p> <p>25 that time?</p>	<p style="text-align: right;">140</p> <p>1 to Dr. Jackson and me and Ben arguing before</p> <p>2 publication that we should invite Philip Ewell in as</p> <p>3 a respondent and that -- and that -- well, I argued</p> <p>4 against it because I told him what I told you, which</p> <p>5 is that in my experience, the traditional way to</p> <p>6 handle these things is that the criticized scholar</p> <p>7 would write a letter to the editor, and it would be</p> <p>8 dealt with in that way.</p> <p>9 Q. Uh-huh.</p> <p>10 A. It turns out that there evidently was also a</p> <p>11 practice of doing just what Levi suggested, but I</p> <p>12 somehow didn't know about it. I hadn't had</p> <p>13 experience with that.</p> <p>14 So I argued against that, and then</p> <p>15 Dr. Jackson agreed with me. And then Levi -- in</p> <p>16 retrospect, as I said, I think that would have been a</p> <p>17 good idea. But Levi then just let the matter drop.</p> <p>18 He -- you know, "If Dr. Jackson and Dr. Slottow say</p> <p>19 no, then I've done what I could. I'm not going to</p> <p>20 press the issue. I'm not going to continue to argue</p> <p>21 for it." He just let it drop. So he brought it up,</p> <p>22 but he let it go fairly easily. That's one instance</p> <p>23 I can remember.</p> <p>24 Q. Was he ever ordered by Timothy Jackson to</p> <p>25 censor anyone?</p>
<p style="text-align: right;">139</p> <p>1 A. Well, he certainly feared the larger</p> <p>2 community to the extent the larger community was</p> <p>3 pointing to him as the editor and saying, "This is</p> <p>4 your fault" --</p> <p>5 Q. Uh-huh.</p> <p>6 A. -- but he blamed Dr. Jackson to a large</p> <p>7 extent for that situation.</p> <p>8 Q. And you said -- I forget how you put it, but</p> <p>9 he felt dominated or something like that by Timothy</p> <p>10 Jackson?</p> <p>11 A. Yes.</p> <p>12 Q. What specific observations did you -- you</p> <p>13 know, what specific events or emails or utterances by</p> <p>14 Levi Walls gave you that impression? And I'm talking</p> <p>15 about before the journal came out.</p> <p>16 A. Well, it was in -- before it was published,</p> <p>17 you mean?</p> <p>18 Q. Yes, correct. Before his grand, you know,</p> <p>19 renunciation of his position and condemnation of</p> <p>20 Timothy Jackson and claiming that he had been stuck</p> <p>21 in a car by some gangster-like professor and all this</p> <p>22 stuff.</p> <p>23 MS. QUIMBY: Objection. Form.</p> <p>24 A. Yeah, I don't -- he never talked to me about</p> <p>25 that last point. I do know he did send an email out</p>	<p style="text-align: right;">141</p> <p>1 A. Not to my knowledge, no. It would seem very</p> <p>2 uncharacteristic.</p> <p>3 What do you mean "censor anyone"?</p> <p>4 Q. I don't know. That's the word he used,</p> <p>5 right, that he was directed, quote, "not to censor</p> <p>6 someone that he wanted to censor," or something of</p> <p>7 that nature.</p> <p>8 A. Are you saying that I said that?</p> <p>9 Q. I'm asking you. I'm asking you if you ever</p> <p>10 heard Timothy Jackson direct Levi Walls to censor</p> <p>11 someone?</p> <p>12 A. No.</p> <p>13 Q. Had -- did you ever --</p> <p>14 A. I'm not even sure what that means.</p> <p>15 Q. Did you ever witness -- okay. Sorry, go</p> <p>16 ahead.</p> <p>17 A. Like -- no, I never heard anything of that</p> <p>18 nature, and this context, I'm not even sure what that</p> <p>19 would mean.</p> <p>20 Q. So you don't even know what Levi Walls is</p> <p>21 talking about?</p> <p>22 A. Well, I don't know that he had used that</p> <p>23 term, and I'm not sure -- unless -- without knowing</p> <p>24 more --</p> <p>25 Q. Yeah.</p>

<div style="text-align: right;">166</div> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: STEPHEN SLOTTOW, PhD</p> <p>3 DATE OF DEPOSITION: NOVEMBER 7, 2024</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<div style="text-align: right;">168</div> <p>1 THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF TEXAS</p> <p>3 SHERMAN DIVISION</p> <p>4 TIMOTHY JACKSON,)</p> <p>5)</p> <p>6 Plaintiff,)</p> <p>7)</p> <p>8 VS.) CIVIL ACTION</p> <p>9)</p> <p>10 LAURA WRIGHT, ET AL.) NO.: 4:21-cv-00033-ALM</p> <p>11)</p> <p>12 Defendants.)</p> <p>13</p> <p>14 REPORTER'S CERTIFICATION OF THE ORAL</p> <p>15 DEPOSITION OF STEPHEN SLOTTOW, PhD</p> <p>16 NOVEMBER 7, 2024</p> <p>17</p> <p>18 I, Vanessa J. Theisen, a Certified</p> <p>19 Shorthand Reporter in and for the State of Texas,</p> <p>20 hereby certify to the following:</p> <p>21 That the witness, STEPHEN SLOTTOW, PhD,</p> <p>22 was duly sworn by the officer and that the transcript</p> <p>23 of the oral deposition is a true record of the</p> <p>24 testimony given by the witness;</p> <p>25 That the original deposition was delivered</p> <p>to Mr. Patrick Todd to obtain witness's signature.</p> <p>That a copy of this certificate was served</p> <p>on all parties and/or the witness shown herein on</p> <p>November 11, 2024.</p> <p>I further certify that pursuant to FRCP</p> <p>Rule 30(3) that the signature of the deponent:</p> <p>_XX_ was requested by the deponent or a</p>
<div style="text-align: right;">167</div> <p>1 I, STEPHEN SLOTTOW, PhD, have read the</p> <p>2 foregoing deposition and hereby affix my signature</p> <p>3 that same is true and correct, except as noted above.</p> <p>4</p> <p>5 _____</p> <p>6 STEPHEN SLOTTOW, PhD</p> <p>7 THE STATE OF _____)</p> <p>8 COUNTY OF _____)</p> <p>9 Before me, _____, on this day</p> <p>10 personally appeared STEPHEN SLOTTOW, PhD, known to me</p> <p>11 (or proved to me under oath or through</p> <p>12 _____) (description of identity card or</p> <p>13 other document) to be the person whose name is</p> <p>14 subscribed to the foregoing instrument and</p> <p>15 acknowledged to me that he executed the same for the</p> <p>16 purposes and consideration therein expressed.</p> <p>17</p> <p>18 Given under my hand and seal of office, this</p> <p>19 _____ day of _____, _____.</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC IN AND FOR</p> <p>23 THE STATE OF _____</p> <p>24 My commission expires: _____</p> <p>25 _____ No Changes Made _____ Amendment Sheet(s) Attached</p>	<div style="text-align: right;">169</div> <p>1 party before the completion of the deposition and</p> <p>2 that the signature is to be before any notary public</p> <p>3 and returned within 30 days from date of receipt of</p> <p>4 the transcript.</p> <p>5 If returned, the attached Changes and</p> <p>6 Signature Page contains any changes and the reasons</p> <p>7 therefore:</p> <p>8 _____ was not requested by the deponent or</p> <p>9 a party before the completion of the deposition.</p> <p>10 I further certify that I am neither</p> <p>11 counsel for, related to, nor employed by any of the</p> <p>12 parties or attorneys in the action in which this</p> <p>13 proceeding was taken, and further that I am not</p> <p>14 financially or otherwise interested in the outcome of</p> <p>15 the action.</p> <p>16 Certified to by me on this, the 11th day</p> <p>17 of November, 2024.</p> <p>18</p> <p>19 _____</p> <p>20 VANESSA J. THEISEN, Texas CSR, RPR</p> <p>21 Texas Cert No. 3238</p> <p>22 Expiration Date: 10/31/25</p> <p>23 Integrity Legal Support Solutions</p> <p>24 Firm Registration No. 528</p> <p>25 9901 Brodie Ln., Ste. 160-400</p> <p>Austin, Texas 78748</p> <p>(512) 320-8690</p> <p>www.integritylegal.support</p>

Journal of Schenkerian Studies

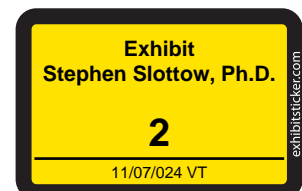
Editor Benjamin Graf
Assistant Editor Levi Walls

Editorial Board

Mark Anson-Cartwright
Benjamin Ayotte
Ellen Bakulina
David Beach
Charles Burkhart
L. Poundie Burstein
Allen Cadwallader
Diego Cubero
William Drabkin
David Gagné
Yosef Goldenberg
Graham Hunt
Timothy L. Jackson
Roger Kamien
Wayne Petty
William Renwick
Frank Samarotto
Carl Schachter
Hedi Siegel
Peter H. Smith
David Stern
Lauri Suurpää
Stephen Slottow

Advisory Board

Timothy L. Jackson
Stephen Slottow



APPX.098

About the Journal

The *Journal of Schenkerian Studies* (ISSN 1558-268X) is a peer-reviewed journal published annually by the Center for Schenkerian Studies and the University of North Texas Press under the guidance of Timothy Jackson, Stephen Slottow, and an expert editorial board. The journal features articles on all facets of Schenkerian thought, including theory, analysis, pedagogy, and historical aspects and reviews of relevant publications.

For new orders and back issues, please contact:

Texas A&M University Press Consortium
John H. Lindsey Building
Lewis Street
4354 TAMU
College Station, Texas 77843-4354

Main Press Phone:

979-845-1436

Main Press Fax:

979-847-8752

Orders Toll Free (U.S. Only):

800-826-8911

Article Submissions and Editorial Correspondence

Article submissions are accepted year round. For submission guidelines visit:

<http://www.music.unt.edu/mhte/node/54>

Please send article submissions and editorial correspondence to the editor at the following address:

Journal of Schenkerian Studies

Levi Walls, Editor

UNT College of Music

1155 Union Circle #311367

Denton, TX 76203-5017

Email correspondence: schenker@unt.edu

Copyright

© 2019 Center for Schenkerian Studies. All rights reserved. No part of this publication may be copied, reproduced, transmitted, or stored in any way without the written consent of the Center for Schenkerian Studies and the University of North Texas Press. Photocopying content for personal use is permitted for libraries and other users registered with the Copyright Clearance Center (CCC), 222 Rosewood Drive, Danvers, MA 01923 (www.copyright.com).

Journal of Schenkerian Studies

VOLUME 12

2019

CONTENTS

JOHN KOSLOVSKY

Schenkerizing *Tristan*, Past and Present 1

BRYAN J. PARKHURST

The Hegelian Schenker, The Un-Schenkerian Hegel, and How to Be a Dialectician about Music 55

NICHOLAS STOIA

The Tour-of-Keys Model and the Prolongational Structure in Sonata-Form Movements by Haydn and Mozart 79

Symposium on Philip Ewell’s SMT 2019 Plenary Paper, “Music Theory’s White Racial Frame” 125–214

INTRODUCTION 125

DAVID BEACH

Schenker–Racism–Context 127

RICHARD BEAUDOIN

After Ewell: Music Theory and “Monstrous Men” 129

JACK BOSS

Response to P. Ewell 133

CHARLES BURKHART

Response to Philip Ewell 135

ALLEN CADWALLADER

A Response to Philip Ewell 137

SUZANNAH CLARK	
Patterns of Exclusion in Schenkerian Theory and Analysis	141
NICHOLAS COOK	
Response to Philip Ewell	153
TIMOTHY L. JACKSON	
A Preliminary Response to Ewell	157
STEPHEN LETT	
De-Scripting Schenker, Scripting Music Theory	167
RICH PELLEGRIN	
Detail, Reduction, and Organicism: A Response to Philip Ewell	173
BOYD POMEROY	
Schenker, Schenkerian Theory, Ideology, and Today’s Music Theory Curricula	179
CHRISTOPHER SEGALL	
Prolongational Analysis without Beams and Slurs: A View from Russian Music Theory	183
STEPHEN SLOTTOW	
An Initial Response to Philip Ewell	189
BARRY WIENER	
Philip Ewell’s White Racial Frame	195
ANONYMOUS	
An Anonymous Response to Philip Ewell	207
BIBLIOGRAPHY FOR THE RESPONSES.....	209
CONTRIBUTORS	215

Levi Nigem Xenon Walls 5/18/21 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4
5 TIMOTHY JACKSON,)
6 Plaintiff,)
7 v.) CASE NO.
8 LAURA WRIGHT, et al,) 4:21-cv-00033-ALM
9 Defendants.)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

ORAL DEPOSITION OF
LEVI NIGEM XENON WALLS
MAY 18, 2021

ORAL DEPOSITION OF LEVI NIGEM XENON WALLS, produced
as a witness at the instance of the Plaintiff, and duly
sworn, was taken in the above-styled and numbered cause
on May 18, 2021, from 12:57 p.m. to 4:52 p.m., before
Nita G. Cullen, CSR in and for the State of Texas,
reported by machine shorthand, at the Law Offices of
Cutler Smith, 12750 Merit Drive, Suite 1450, in the City
of Dallas, County of Dallas, State of Texas, pursuant to
the Federal Rules of Civil Procedure.

Levi Nigem Xenon Walls 5/18/21 3

INDEX

	PAGE
Appearances.....	2
Stipulations.....	4
LEVI NIGEM XENON WALLS	
Examination by Mr. Allen.....	4
Reporter's Certificate.....	143

EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 4	Subpoena to Testify for Levi Walls.....	6
Exhibit 5	Text Messages between Levi and Chris.....	11
Exhibit 6	Text Messages between Nate, Brian, Jessica, and E.....	34
Exhibit 7	E-mail to Benjamin Brand, dated 7/26/2020.....	45
Exhibit 8	E-mail to Benjamin Brand, dated January 9, 2020.....	50
Exhibit 9	E-mail to Ellen Bakuline, dated July 25, 2020.....	62
Exhibit 10	Facebook Post by Levi Walls, July 27.....	70
Exhibit 11	Letter to Dr. Jackson from Levi Walls.....	85
Exhibit 12	Letter to Dr. Jackson from Levi Walls.....	87
Exhibit 13	E-mail to Stephen Slottow, 12/19/2019.....	89
Exhibit 14	E-mail to JSS Authors and Advisory Board, March 14, 2020.....	93
Exhibit 15	E-mail dated March 10, 2020, to Schenker, me.....	99
Exhibit 16	E-mail to Levi Walls, March 13, 2020.....	101
Exhibit 17	E-mail to Dr. Jackson, February 13.....	108
Exhibit 18	Call For Papers, December 17, 2019.....	110
Exhibit 19	Members of the Editorial Board Correspondence re. Call for Papers, November 25-December 1, 2019.....	113
Exhibit 20	Response to Ewell, November 19, 2019.....	122
Exhibit 21	Meeting, November 15, 2019.....	126
Exhibit 22	E-mail to Dr. Jackson, November 18, 2019.....	130
Exhibit 23	E-mail to Tim, Stephen, and Benjamin, April 22, 2019.....	133

Levi Nigem Xenon Walls 5/18/21 2

A P P E A R A N C E S

FOR THE PLAINTIFF:

MR. MICHAEL THAD ALLEN
MS. SAMANTHA HARRIS
ALLEN LAW, LLC
P.O. Box 404
Quaker Hill, Connecticut 06375
860.772.4738
860.469.2783 Fax
m.allen@allen-lawfirm.com

FOR THE DEFENDANTS:

MR. MATT BOHUSLAV
ASSISTANT ATTORNEY GENERAL
GENERAL LITIGATION DIVISION
ATTORNEY GENERAL OF TEXAS
P.O. Box 12548, Capitol Station
Austin, Texas 78711
matthew.bohuslav@oag.texas.gov

AND

MR. RENALDO STOWERS
SENIOR ASSOCIATE GENERAL COUNSEL
UNIVERSITY OF NORTH TEXAS SYSTEM
OFFICE OF GENERAL COUNSEL
1155 Union Circle
Denton, Texas 76203
940.565.2717
renaldo.stowers@untssystem.edu

ALSO PRESENT:

MR. TIMOTHY JACKSON

Levi Nigem Xenon Walls 5/18/21

4

P R O C E E D I N G S

LEVI NIGEM XENON WALLS,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ALLEN:

Q. Mr. Walls, my name is Michael Allen, I'm an
attorney for Timothy Jackson. I just wanted to talk
about some things preliminarily. This will be a very
formal conversation, but it's a conversation
nonetheless. The deposition is an extension of the
Court, and the purpose of the deposition is to find out
what evidence you have and what you would say at trial.

So, a couple ground rules. If I -- if I
say anything that's unclear to you, please feel free to
interrupt me and ask for clarification. It's more than
possible that it's my unclarity, my incompetence at
forming a good question. So, I wouldn't want you to
answer a question you didn't understand, is that clear?

A. Yes.

Q. So, as a corollary to that, if you don't ask
for a clarification, I'll assume you understand my
question; is that also clear?

A. Yes.

MR. ALLEN: Matt, in the last deposition,
we agreed that all objections except those that go to

1 technique of analyzing music and scholars who try to
2 advance or think of the theory behind the technique, or
3 am I misunderstanding that?

4 **A.** I don't think I'm making that distinction. I
5 just think that there is a spectrum -- as with any
6 research interest, there's a spectrum of, you know,
7 where people are, in terms of their relationship to
8 Schenkerian analysis.

9 Some people are interested in it, but don't
10 rely on it very often or very much for their analyses,
11 whereas some people do Schenkerian analysis and only
12 Schenkerian analysis.

13 **Q.** And of those people, the latter category, who
14 do primarily or only Schenkerian analysis, can you name
15 any in the United States that are not on the board of
16 the Journal of Schenkerian Studies?

17 **A.** I don't think so. Granted, I don't know every
18 music theorist in the country.

19 **Q.** Of course. Let me ask a follow-up question.
20 You know, how large of a community would you estimate
21 that community of scholars is, within general terms?
22 I'm not asking for an exact number, but can you estimate
23 for me about how many of those, I guess you might have
24 described them as hard core Schenkerians, if you will.

25 **A.** Really, I have no idea in terms of a number. I

1 think that the number has gotten smaller over the years,
2 whereas Schenkerian analysis was incredibly popular in
3 the '80s and '90s, including at institutions like CUNY
4 and Mann's. I think that the number has dwindled over
5 the last few decades. But in terms of a current number,
6 I really have no idea how to quantify it.

7 **Q.** Well, let me put it this way. Is it over 100?

8 **A.** I think it's safe to say that it would be over
9 100.

10 **Q.** And, I mean, in your rough estimation, how many
11 music theorists are there employed at academic
12 institutions throughout the United States?

13 **MR. BOHUSLAV:** Objection, calls for
14 speculation.

15 **A.** I honestly have no idea how many academics
16 there are in music employed in the United States.

17 **Q.** (By Mr. Allen) What's the primary academic
18 organization for or professional society for music
19 theorists in the United States?

20 **A.** The Society for Music Theory.

21 **Q.** Is there any other?

22 **A.** I mean, there are obvious organizations that
23 would rank below that, in terms of importance. Well, I
24 suppose I'm mainly thinking of conferences, because I
25 was about to say -- name a few conferences, like EuroMAC

1 or International Conference on Musical Forum, but those
2 aren't really a society in the way that SMT is a
3 society.

4 **Q.** How large is the Society for Music Theory?

5 **A.** I don't know how large it is, in terms of
6 number of members. I recall at some point seeing the
7 statistics, probably at an SMT meeting, but I have -- I
8 could not even make a guess, in terms of how many
9 members there are. Maybe two or 3,000, but that seems
10 like an overestimate.

11 **Q.** And do you have knowledge -- do you know
12 whether Schenkerians are a minority of those members?
13 And by that I mean the hard core Schenkerians whom you
14 described earlier.

15 **A.** Yeah. I would say that they would be a
16 minority, if we're talking about hard core Schenkerians.

17 **Q.** A small minority or a sizeable minority?

18 **MR. BOHUSLAV:** Objection, vague.

19 **A.** I would really go in between those two. I
20 wouldn't say it's a small minority, but I think it would
21 be too far to say it was sizeable minority.

22 **Q.** (By Mr. Allen) I want to call your attention
23 to Exhibit 5, again. There's a blue bubble underneath
24 that much larger bubble of yours. It seems to be
25 Benjamin Graf speaking again. And he says, "I agree,

1 and I am in a similar position. I was editor when Tim
2 Jackson and Stephen Slottow were my dissertation
3 advisors. Now, they are my colleagues and on promotions
4 committees, et cetera, that have a significant stake in
5 my employment. Volume 12 was largely ready before the
6 SMT and I was passing the baton to Levi when these ideas
7 came up."

8 I'm curious about what he means, if you
9 know, where he says, "they are my colleagues and on
10 promotions committees, et cetera, that have a
11 significant stake in my employment."

12 What is he discussing there with you and
13 Chris Segall?

14 **MR. BOHUSLAV:** Objection, calls for
15 speculation.

16 **Q.** (By Mr. Allen) You were a party to this
17 conversation, were you not?

18 **A.** Yes.

19 **Q.** So, how did you interpret what Benjamin Graf
20 was saying?

21 **A.** I assume, since he is tenure track, I believe,
22 that he would rely on colleagues like Tim Jackson and
23 Stephen Slottow, rely on their good impressions in order
24 to advance his career.

25 **Q.** Do you know of any instance in which Timothy

1 bubbles.
 2 **A.** Uh-huh.
 3 **Q.** I believe Benjamin Graf is saying, "it's
 4 blowing up and honestly we never even wanted to do it,
 5 but it's my dissertation advisor and higher ranking
 6 colleague, plus we wanted to publish supporting essays."
 7 Did I read that correctly?
 8 **A.** Yes.
 9 **Q.** And you recognize that as Benjamin Graf
 10 speaking to you and Chris Segall, right?
 11 **A.** Yes.
 12 **Q.** What's he referring to, "we never even wanted
 13 to do it, and we wanted to publish supporting essays?"
 14 **MR. BOHUSLAV:** Objection, calls for
 15 speculation.
 16 **A.** I believe he's talking about the -- not
 17 plenary -- the -- sorry -- the responses to Ewell --
 18 symposium, sorry, the word just flew out of my head.
 19 **Q.** (By Mr. Allen) And just to be clear, that's
 20 the symposium, which was the given in November of 2019,
 21 published in Volume 12 of the Journal of Schenkerian
 22 Studies?
 23 **A.** Yes.
 24 **Q.** Is it fair if we just refer to that by
 25 shorthand as just "the symposium", for the rest of the

1 deposition?
 2 **A.** Sure.
 3 **Q.** Okay. Thanks. Again, you understood Benjamin
 4 Graf to be saying we never even wanted to do the
 5 symposium, correct?
 6 **A.** I believe so.
 7 **Q.** And "we wanted to publish supporting essays."
 8 What does he mean -- how did you understand that to
 9 mean, "we wanted to publish supporting essays"?
 10 **A.** I believe what he meant was that if the
 11 symposium was going to go ahead, that our preference
 12 would have been for there to be plenty of essays in
 13 support of Ewell, rather than it just being Schenkerian
 14 after Schenkerian.
 15 **Q.** Is it possible to be a Schenkerian and be pro
 16 Ewell?
 17 **A.** Sure. I think so.
 18 **Q.** And is it possible to be pro Ewell and be, you
 19 know, pro Schenkerian analysis?
 20 **A.** I think that as Ewell has done, you can admit
 21 that Schenkerian analysis has analytical uses, but also
 22 that it has a history with a race that's very
 23 questionable and deserves to be questioned.
 24 And so, I don't think that there is this
 25 necessity to be black and white, in which you're either

1 a Ewell supporter or you're a person who does
 2 Schenkerian analysis.
 3 **Q.** Skipping to the next page here, if you could.
 4 I'm on page 5, now. You contribute to the conversation.
 5 "I can see that -- referring to what was coming before
 6 it -- "definitely not something I or Ben considered. We
 7 were about to finish the journal, which was supposed to
 8 be published in November or early December, when the
 9 advisory board got really gungho about a response to
 10 Ewell. And so, we made the deadline very short."
 11 Can you describe what you're referring to
 12 in that statement?
 13 **A.** So, I think Chris had expressed the relief that
 14 the very short deadline at a busy time of the year,
 15 around Christmas, was strategically done in order to
 16 limit the number of responses. So, in other words, in
 17 order to limit the number of pro Ewell responses. And I
 18 said that I could see that reasoning, but it wasn't
 19 something that Graf or I had considered.
 20 The reasoning at the time had just been
 21 that the journal was basically done at the end of the
 22 year, and then the SMT in November happened. And
 23 suddenly, there was this new section of the journal that
 24 we had to do, and so in order to salvage somewhat of a
 25 deadline, since it was supposed to be a 2020 journal,

1 the call was just made very short.
 2 **Q.** Did other people at the journal discuss
 3 manipulating the deadline to exclude pro Ewell points of
 4 view?
 5 **A.** No.
 6 **Q.** And you also say, if you skip down one bubble
 7 after Benjamin Graf's blue bubble there, it says,
 8 "Volume 13 would have been preferable," correct?
 9 **A.** Yes.
 10 **Q.** Is that something you argued for at the time?
 11 **A.** I don't think I argued for putting the
 12 symposium in Volume 13. I think the view at the time
 13 was that it was timely for it to go in Volume 12.
 14 **Q.** And what would make it timely? Can you
 15 describe the thought process of you, as an editor, of
 16 are what you were fielding as questions by anyone on the
 17 editorial board? What was making it timely?
 18 **A.** Well, if there was going to be a symposium
 19 based on Ewell's talk, it would make sense for it to
 20 occur a month or two after Ewell's talk, rather than a
 21 year and month after Ewell's talk.
 22 On the other hand, putting it in Volume 13,
 23 even though it would have been delayed, would have been
 24 preferable from the standpoint that there would have
 25 been more time to, you know, allow people to write

1 responses.

2 Q. It was certainly a lot of work for you, right?

3 A. Sure.

4 Q. It would seem that you worked very hard on this
5 project, correct?

6 A. Well, it was my job.

7 Q. Were you -- did anyone comment about your hard
8 work on the project at the time, that it was deficient
9 in any way or that you weren't holding up your end?

10 A. No. I think I did well in typesetting the
11 articles and getting rid of typos and, you know, looking
12 at structure.

13 Q. And Levi Walls, reading your name "Levi" on the
14 next page, page 6. I'm sorry to call you by your first
15 name, but it's just that's the name on the thread, no
16 disrespect intended. You know, about two sentences
17 down, it says, "I like the job in general, because I
18 love editing and being involved in research, but I'm not
19 in a position to go against the people who control the
20 journal." You see that?

21 A. Yes.

22 Q. Describe your position on the journal and how
23 you felt you were able to discuss the initiatives of the
24 journal with other people on the editorial board for me.

25 A. Well, when it came to discussions of what

1 should and shouldn't go into the journal, even if I had
2 reservations, I generally kept them to myself.

3 Q. Describe your interactions with authors in the
4 editorial process. How did you interact with the
5 authors?

6 A. Mostly, I gave comments on readability and if
7 there was something that they wrote that I thought was,
8 you know, clumsy or awkward, well, I wouldn't have said
9 "clumsy" to them, that would have come off as rude. But
10 if the wording was somehow unclear, I would have
11 suggested an alternate wording. And, obviously, if they
12 were clear typos, I would have suggested changing those.
13 Generally, closest I got to content, at
14 least in the -- you know, well, I suppose in both the
15 large scale articles and the symposium would be comments
16 about, like, argumentative structure. Like, if I saw an
17 argument that just rhetorically wasn't clear, but that
18 really doesn't have much to do with like the content of
19 it.

20 The closest I got to talking about content
21 was with one of the contributors, Barry Wiener. And I
22 expressed some concern over the tone. But after that, I
23 stopped doing that.

24 Q. And this was an author you now characterize as
25 having published a racist article, correct?

1 A. Yes.

2 Q. And did you recognize his article as racist at
3 the time?

4 A. Yes.

5 Q. And did you leave any writing indicating that
6 you felt his article was racist?

7 A. I did not tell him that his article was racist.
8 I said that the tone was -- I don't recall exactly what
9 I said, but I think I said something along the lines
10 that the tone was confrontational and that his arguments
11 would come out better if it was not as confrontational
12 or if he was less, I don't know, confrontational towards
13 left politics?

14 Q. Is it racist to be confrontational, is that
15 what you mean?

16 A. I don't believe it's racist to be
17 confrontational in itself. I believe it's racist to say
18 something along the lines of, left politics being part
19 of reeducation camps.

20 Q. Did his article say that?

21 A. I believe that was in that article. I could be
22 mistaken, it could have been in another article.

23 Q. And you write here, in fact, you have the
24 exhibit, "I also don't want to lose my job." Do you see
25 where you said that?

1 A. Yes.

2 Q. Did anyone ever threaten you with losing your
3 job at the journal?

4 A. No.

5 Q. In fact, you quit you said, I think, July 29th,
6 2020, if I'm not mistaken, or thereabouts?

7 A. Yes. And I was encouraged to leave by Benjamin
8 Brand.

9 Q. Benjamin Brand being the department chair or
10 division chair MHTE.

11 A. Yes.

12 Q. I'm always afraid I'm transposing the letters.
13 So, he essentially told you to leave the job, is that
14 it?

15 A. He didn't tell me to leave the job, but he knew
16 I was unhappy in the job, especially in the recent
17 months leading up to July. Really, from November to
18 July. Pre-November, pre-SMT, I was actually rather
19 happy with the job, just working on those three academic
20 articles.

21 And up to that point, the input from the
22 editorial board was a lot less. It was after the SMT
23 that it became very micromanaged, and that's about the
24 point where I started to dislike the job.

25 So, Brand knowing that I was already

1 unhappy in the job and had already been concerned about
2 my name being attached to something that was racist,
3 encouraged me to leave the position. And, mainly, did
4 that by saying that my funding would be okay if I did,
5 that I would have a position as a TA, which was my main
6 concern.

7 Q. Which is what you've done now, correct? You've
8 continued as a TA, correct?

9 A. Yes.

10 Q. And no one was issuing statements for you to be
11 fired, correct?

12 A. No.

13 Q. And it was -- you were becoming dissatisfied
14 with the job, you said from November up through July, so
15 sounds like from the Philip Ewell talk through the
16 publication of the journal and the resulting fallout,
17 because of the racist content of the journal.

18 A. Yes.

19 (DEPOSITION EXHIBIT 7 MARKED.)

20 Q. (By Mr. Allen) I think you're on this e-mail,
21 Mr. Walls. Is this your e-mail, LeviWalls@my.unt.edu?

22 A. Yes.

23 Q. Do you recall this e-mail?

24 A. Yes, I do.

25 Q. And isn't it true that this e-mail discusses

1 having a response from Ewell and others who might want
2 to respond to the symposium in a Volume 13?

3 A. I have to remind myself everything that was
4 said in this e-mail. Could I just have a moment to
5 review it?

6 Q. Of course. Of course. I should have said that
7 at the beginning, and I'm sure your attorney would have
8 objected if I forced you to comment on a document that
9 you couldn't read. If at any time you need time to
10 examine a document, please just say so.

11 A. All right. What was your question?

12 Q. So, this e-mail discusses having a response
13 from Ewell, as well as others, to the symposium in
14 Volume 13, which would have appeared in the next
15 subsequent volume of the Journal for Schenkerian
16 Studies, correct?

17 A. Yes.

18 Q. Do you know if a call for papers ever went out?

19 A. For Volume 13?

20 Q. Correct.

21 A. Not that I know of.

22 Q. Why not?

23 A. I mean, I assume if it went out, it would have
24 went to SMT list, but I actually don't keep track of
25 it -- SMT list, that is.

1 Q. But you know for a fact no call for papers for
2 a Volume 13, as a kind of follow-up to the symposium
3 ever went out.

4 A. I don't know that for a fact. I just haven't
5 seen one. As far as I know, no call ever went out for
6 Volume 13.

7 Q. Did you prepare any such call for papers?

8 A. No.

9 Q. You participated directly in the call for
10 papers that went out for the symposium, correct?

11 A. Yes.

12 Q. Isn't this a normal part of editorial practice,
13 to call for responses to controversial articles that
14 have been published?

15 A. To the best of my knowledge, I think that's
16 normal, although I got a sense from other people that
17 what would have been more standard would have been to
18 specifically invite Ewell from the beginning.

19 Q. Do you know that Ewell was not invited to
20 participate in the symposium?

21 A. He wasn't directly or explicitly invited.

22 Q. Was he invited in some way?

23 A. It is true that the call went out general or
24 generally through the SMT list, I think, and so,
25 theoretically, he might have had access to the call, if

1 he keeps track of the SMT list, which I mean, I imagine
2 he does, but he wouldn't have been invited specifically.

3 Q. Do you know if Ewell participated in any of the
4 authors' publications that were pro-Ewell that appeared
5 in the symposium, by either consulting with them or
6 reading their papers in advance or in any form like
7 that? Did you have any knowledge of that, as an editor?

8 A. I think one of the articles mentioned in --
9 sorry -- acknowledgments that they consulted with Ewell,
10 just asking his opinion on what they wrote, but I
11 don't -- I want to say Lett's, that could be wrong.

12 Stephen Lett.

13 Q. Stephen Lett's publication, is that what you're
14 referring to?

15 A. Yes. I believe that was the one with the
16 acknowledgment mentioning that they ran it by Ewell for
17 comments.

18 Q. So if someone said Ewell had no notice that the
19 symposium was going to be published, that would be
20 false, correct?

21 MR. BOHUSLAV: Objection, calls for
22 speculation.

23 A. I think he had notice, but it seemed to me --
24 and, again, I don't really know Ewell's frame of mind --
25 it seems as if he wanted a direct invitation, that if

1 specific theoretical issues, but they chose to
 2 specifically focus on just the direction that the
 3 plenary took, in terms of like being on social issues or
 4 being left of center.
 5 **Q.** Do you consider, for instance, Philip Ewell's
 6 views to be left of center?
 7 **A.** Yes.
 8 **Q.** Do you consider them to be moderate views?
 9 **A.** Yeah. I would say that they're moderate.
 10 **Q.** How would you characterize his paper in its
 11 substance? If you could summarize his paper in three
 12 sentences, how would you summarize it?
 13 **A.** I mean, that's quite a task. But I would say
 14 that primarily his paper focused on the -- really,
 15 the -- what's the word I'm looking for? I suppose the
 16 debt that music theory has, and to a somewhat lesser
 17 extent musicology, the debt that it has to white
 18 supremacist narratives, mainly seen through issues of
 19 canon, what works are and aren't focused on in academia.
 20 And as a part of that, he focused on Schenker as a case
 21 study, since Schenker is a widely practiced methodology
 22 in North America.
 23 **Q.** And is the objection to those opinions what
 24 you're referring to here? I'm looking at the second
 25 sentence, which is quite long, but I'm going to -- look

1 where it refers to Burkhart, Eric Wen and Damschroder,
 2 and you say, "who I know to have particularly vitriolic
 3 opinions about Ewell and his paper." Is it the
 4 objection to those ideas which you summarized what you
 5 meant when you wrote that to your chair, Benjamin Brand?
 6 **MR. BOHUSLAV:** Objection, vague, compound.
 7 **A.** Could you re -- or could you be a little bit
 8 more clear?
 9 **Q.** (By Mr. Allen) Sure. I'll just withdraw the
 10 question, please.
 11 Let me read the sentence. "Even though we
 12 put out a CFP that I specifically framed in a way that
 13 emphasizes that responses should be thoughtful and
 14 neutral in tone, Dr. Jackson has been privately
 15 soliciting responses from people (Burkhart, Eric Wen,
 16 Damschroder) who I know to have particularly vitriolic
 17 opinions about Ewell and his paper." Did I read that
 18 correctly?
 19 **A.** Yes.
 20 **Q.** And you wrote that, right?
 21 **A.** Yes.
 22 **Q.** And the particularly vitriolic opinions about
 23 Ewell and his paper, those you were identifying as the
 24 opinions of the hard core Schenkerians, among whom many
 25 were on the board of the Journal for Schenkerian

1 Studies, correct?
 2 **A.** Yes.
 3 **Q.** And they were reacting to what you
 4 characterized as the content of Ewell's paper, as you
 5 just summarized, correct?
 6 **A.** Yes.
 7 **Q.** Did this meeting take place between you and Dr.
 8 Brand?
 9 **A.** Yes.
 10 **Q.** And what did you discuss in that meeting?
 11 **A.** I told him that I was worried about what the
 12 journal was going to print, because it seemed as if
 13 people were really angry about Ewell's paper, and I
 14 didn't want the journal to print anything explicitly
 15 racist or implicitly racist, and I was afraid that they
 16 were going to, and so I just told him that I was worried
 17 about that.
 18 **Q.** Were you worried about the effect this would
 19 have on your career, too?
 20 **A.** Yeah. I was worried. I was a little bit more
 21 worried about the reputation of the school and the
 22 departments, but I was also worried about my own
 23 reputation as being someone who -- whose name would be
 24 on the journal.
 25 **Q.** What else did you talk about with Dr. Brand?

1 **A.** I mean, it wasn't a really long meeting. I
 2 don't recall exactly how long it was, maybe 20 minutes,
 3 and so that's mainly what we stuck to. He did express
 4 the idea that there wasn't much to worry about and that
 5 I shouldn't be very worried, that if -- you know, if the
 6 journal did express racist -- people who contributed to
 7 the journal expressed racist beliefs, then those were
 8 their beliefs and not necessarily my own.
 9 **Q.** Did he express any desire or need to eliminate
 10 the journal at that time?
 11 **A.** No.
 12 **Q.** Did he express any belief or desire to remove
 13 Timothy Jackson from the editorial board?
 14 **A.** No.
 15 **Q.** To remove Stephen Slottow from the editorial
 16 board?
 17 **A.** No.
 18 **Q.** To replace you with a tenured faculty member in
 19 any way?
 20 **A.** No.
 21 **Q.** And was there anything else you discussed with
 22 Benjamin Brand in that 20-minute meeting?
 23 **A.** Let me think. We did briefly discuss the -- as
 24 I understood it, the history of Dr. Jackson's
 25 understanding of race, and that I didn't have a lot of

1 discourse?

2 **A.** Well, there were a few instances. At one
3 point, when discussing Meyerbeer Opera, he used the term
4 negro, not necessarily in a case that would have been
5 warranted historically. And in another case, he
6 expressed worry about when he was in school being mugged
7 by black people when he was carrying around his scores.
8 That he carried scores around New York a lot, and he
9 would see black people look at him a certain way and
10 would be worried that he was going to be mugged, which
11 seemed incredibly ignorant.

12 **Q.** When was this, like in the 1970s, 1980s, do you
13 know?

14 **A.** I don't recall exactly when he went to school,
15 but I would guess 1980s.

16 **Q.** Do you know what the crime rates were at that
17 time?

18 **A.** Nope.

19 **Q.** Do you think there's any objective basis to
20 fear that he might be mugged on the streets of New York
21 in the 1980s?

22 **A.** I think that there is a basis to fear mugging
23 anywhere in the U.S., in any state at any time, but not
24 specifically by one group over another.

25 **Q.** So, you would believe that it is racist to

1 we've discussed politically correct discourse, and you
2 say in your sentence, politically correct discourse and
3 race relations. What I'm trying to ask you is, what are
4 you referring to in the phrase "race relations" that we
5 have not discussed in terms of politically correct
6 discourse?

7 **A.** I suppose just defining race relations would be
8 the really relating to societal structure, including
9 things like hegemony, like which classes of people tend
10 to get resources and which don't. That's, I think, what
11 I meant by race relations.

12 **Q.** So, differences in the distribution of wealth,
13 is that what you mean?

14 **A.** Yes, among other things.

15 **Q.** What other factors do you mean by hegemony?
16 I'm really unsure what hegemony means.

17 **A.** Just basically the status quo. In this case,
18 the -- really the uneven distribution of wealth
19 following as -- what's the word -- as a consequence of
20 an entire group of people having been enslaved 200 years
21 ago.

22 **Q.** And by that, you mean black Americans.

23 **A.** Yes.

24 **Q.** And anything else you mean by hegemony in race
25 relations?

1 believe that statistics showing that certain groups of
2 people are more likely, on average, to commit crimes
3 than other groups would not be a rational basis for
4 opinions.

5 **A.** Yes.

6 **Q.** Whether or not those statistics have any basis
7 in reality.

8 **A.** Yes.

9 **Q.** And that was part of Jackson's woeful ignorance
10 about politically correct discourse, correct?

11 **A.** Yes.

12 **Q.** And you would believe that any professor, not
13 just Professor Jackson, should hear and observe
14 politically correct discourse, is that your basic
15 belief?

16 **A.** Yes.

17 **Q.** And is there anything in the category race
18 relations that you believe is included in politically
19 correct discourse that we haven't discussed as part of
20 politically correct discourse?

21 **MR. BOHUSLAV:** Objection, vague.

22 **A.** Yeah, I'm a little turned around by that
23 question. Could you rephrase it?

24 **Q.** (By Mr. Allen) Yeah. Let me strike that
25 question. What I'm trying to get at, Mr. Walls, is

1 **A.** I suppose not.

2 **Q.** You also say -- I'm skipping down yet again to
3 the bottom of that page -- "I feared retaliation from
4 Timothy Jackson because" -- let me start that again. "I
5 feared retaliation from Timothy Jackson: He is an
6 incredibly well-connected and influential figure in
7 Schenkerian circles."

8 So, I think you had expressed in that first
9 text message thread with Christopher Segall that you
10 feared retaliation, correct?

11 **A.** Yes.

12 **Q.** And you're repeating that fear here.

13 **A.** Yes.

14 **Q.** And I believe that this being July 27th is
15 approximately the same time frame, is that correct?

16 **A.** Yes.

17 **Q.** And we established already that you can't
18 really identify any specific incident in which you were
19 retaliated against, correct?

20 **A.** No. Because I was very careful not to give him
21 reason to retaliate against me up until that point.

22 **Q.** So, your position is that you might have been
23 retaliated against, but for not saying things or
24 something of that nature.

25 **A.** I was sure I would have been.

1 Q. What made you sure?

2 A. Talking to people who have been retaliated

3 against, and just knowing -- just how he is, in terms of

4 getting his own way about things.

5 Q. Who had Timothy Jackson retaliated against in

6 the past?

7 A. Yiyi Gao.

8 Q. Anyone else you can think of?

9 A. I don't remember her last name, but a previous

10 Schenker RA, Rachel something.

11 Q. Would it be Rachel Gain?

12 A. It was not Rachel Gain.

13 Q. So, you can't remember the name of this other

14 Schenker RA?

15 A. I don't recall her last name. We never really

16 spoke in person. I was just told about their problems

17 from another person, David Falterman, who also

18 expressed -- expressed grievances about retaliation.

19 Q. David Falterman?

20 A. David.

21 Q. David.

22 A. Yeah.

23 Q. Can you spell his last name, if you know it?

24 A. F-A-L-T-E-R-M-A-N.

25 Q. And would the Rachel be Rachel Anderson, by any

1 chance?

2 A. I'm really not sure.

3 Q. So, you can't identify the second person,

4 correct?

5 A. I just simply don't remember their last name.

6 Q. And you knew about it only through other people

7 telling you things.

8 A. I knew about it through David, who talked to

9 them.

10 Q. And do you know if David Falterman -- if David

11 Falterman experienced any retaliation?

12 A. He said that he did, although he didn't go into

13 detail.

14 Q. And do you know any of the details about the

15 supposed retaliation against the Schenker RA?

16 A. I don't know the specific details.

17 Q. How about Yiyi Gao, what do you know about

18 supposed retaliation against this individual?

19 A. That one, I know more about. I know that there

20 was a point where they were asked to keep typesetting

21 materials after an independent study had ended, and they

22 couldn't because they were going home to see family.

23 And when they said that, Dr. Jackson retroactively

24 changed their passing grade to a failing grade.

25 Q. And do you know if this is documented anywhere?

1 A. I'm sure it is because the issue was, as I

2 understand, taken up with administration.

3 Q. So, this was vetted with the administration, as

4 far as you know?

5 A. As far as I know.

6 Q. Do you agree that a student should not get a

7 passing grade for work that's not passing?

8 A. But the work was passing. That's why I got a

9 passing grade.

10 Q. How do you know that?

11 A. Because I got a passing grade.

12 Q. I thought you said it was changed from a

13 passing to failing grade.

14 A. It was changed from a passing to failing grade,

15 when the student didn't do what they wanted -- what Dr.

16 Jackson wanted.

17 Q. What was that?

18 A. To keep typesetting materials after the

19 independent study had ended.

20 Q. So, your view is or your understanding of this

21 so-called retaliation was requiring a student to keep

22 typesetting work after a semester had ended for which

23 they got a passing grade.

24 A. Yes. A student should not be ordered to

25 continue work that they are no longer getting school

1 credits for.

2 Q. So, she should have got a non-passing grade and

3 not have been afforded the opportunity to finish that

4 work. Is that what you understand?

5 A. They got a passing grade because I assume they

6 finished the work or else they wouldn't have gotten a

7 passing grade. It's only when they refused to keep

8 doing work that they were given a failing grade.

9 Q. Do you have any knowledge of whether the work

10 up to that point was unsatisfactory or not?

11 A. No. I assume it was just by virtue of the fact

12 that it was given a passing grade.

13 Q. So, the basic point is, you don't really

14 understand the circumstances that led to this passing

15 grade supposedly being given, correct?

16 A. I don't know all the circumstances, I just know

17 that it was wrong.

18 Q. And did you hear this from Yiyi Gao directly?

19 A. I don't remember who I heard it from. It might

20 have been from Yiyi, or it might have been from a mutual

21 friend.

22 Q. So, you can't identify now where you heard

23 this.

24 A. I think it was Yiyi, I'm just not 100 percent

25 certain.

1 there's something I'm forgetting, okay?

2 MR. BOHUSLAV: Okay.

3 (OFF THE RECORD FROM 4:46 TO 4:51 P.M.)

4 Q. (By Mr. Allen) Mr. Walls, I just had one last

5 question, and it goes back to the meeting in the car you

6 had with Professor Jackson, which you described in the

7 middle of a snowstorm in February at some point. Did I

8 characterize that correctly?

9 A. I wouldn't call it a snowstorm. It was just

10 lightly snowing.

11 Q. And did you go into the car to escape the

12 weather?

13 A. That was how he suggested it.

14 Q. Did he use force in any way?

15 A. No.

16 Q. Did he use coercion in any way?

17 A. No. I could have said "no".

18 Q. Thank you. And so, he didn't threaten you, if

19 you did not go into his car.

20 A. No. But he suggested that we go into the car,

21 and I just have trouble saying no to people who are my

22 advisor. And so, even though I was uncomfortable, I

23 went into the car.

24 Q. But you said you could have said no, correct?

25 A. Yes.

1 MR. ALLEN: Okay. That's all. I pass the

2 witness to you, Mr. Bohuslav.

3 MR. BOHUSLAV: We'll reserve till time of

4 trial.

5 MR. ALLEN: Thank you so much. Thank you

6 for your time. Good luck with your graduate studies.

7 (DEPOSITION ADJOURNED AT 4:52 P.M.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE EASTERN DISTRICT OF TEXAS

3 SHERMAN DIVISION

4 TIMOTHY JACKSON,)

5)

6 Plaintiff,)

7) Case No.

8 v.)

9) 4:21-cv-00033-ALM

10 LAURA WRIGHT, et al,)

11)

12 Defendants.)

13)

14

DEPOSITION CERTIFICATE

LEVI NIGEM XENON WALLS

MAY 18, 2021

15 I, Nita G. Cullen, Certified Shorthand

16 Reporter in and for the State of Texas, hereby certify

17 to the following:

18 That the witness, LEVI NIGEM XENON WALLS, was

19 duly sworn by the officer and that the transcript of the

20 oral deposition is a true record of the testimony given

21 by the witness;

22 I further certify that pursuant to FRCP Rule

23 30(f)(1) that the signature of the deponent:

24 _____ was requested by the deponent or a

25 party before the completion of the deposition and is to

1 be returned within 30 days from date of receipt of the

2 transcript. If returned, the attached Changes and

3 Signature Page contains any changes and the reasons

4 therefor;

5 X was not requested by the deponent or a

6 party before the completion of the deposition.

7 I further certify that I am neither attorney

8 or counsel for, nor related to or employed by, any of the

9 parties or attorneys to the action in which this

10 deposition was taken.

11 Further, I am not a relative or employee of

12 any attorney of record in this case, nor am I financially

13 interested in the outcome of the action.

14 Subscribed and sworn to on this 14th day of

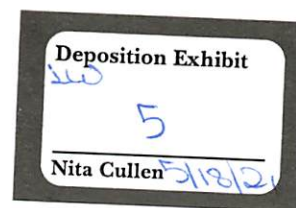
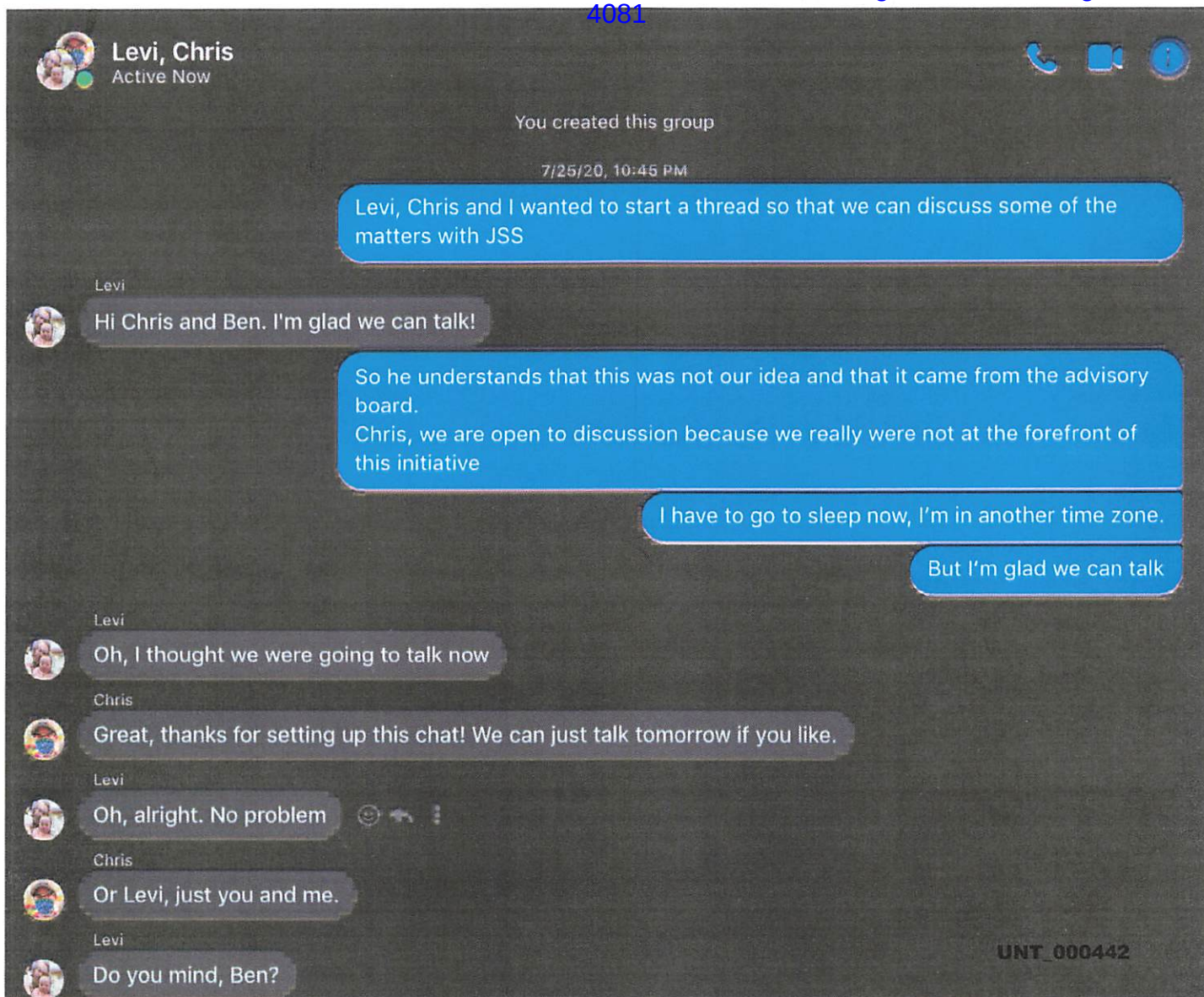
15 June, 2021.

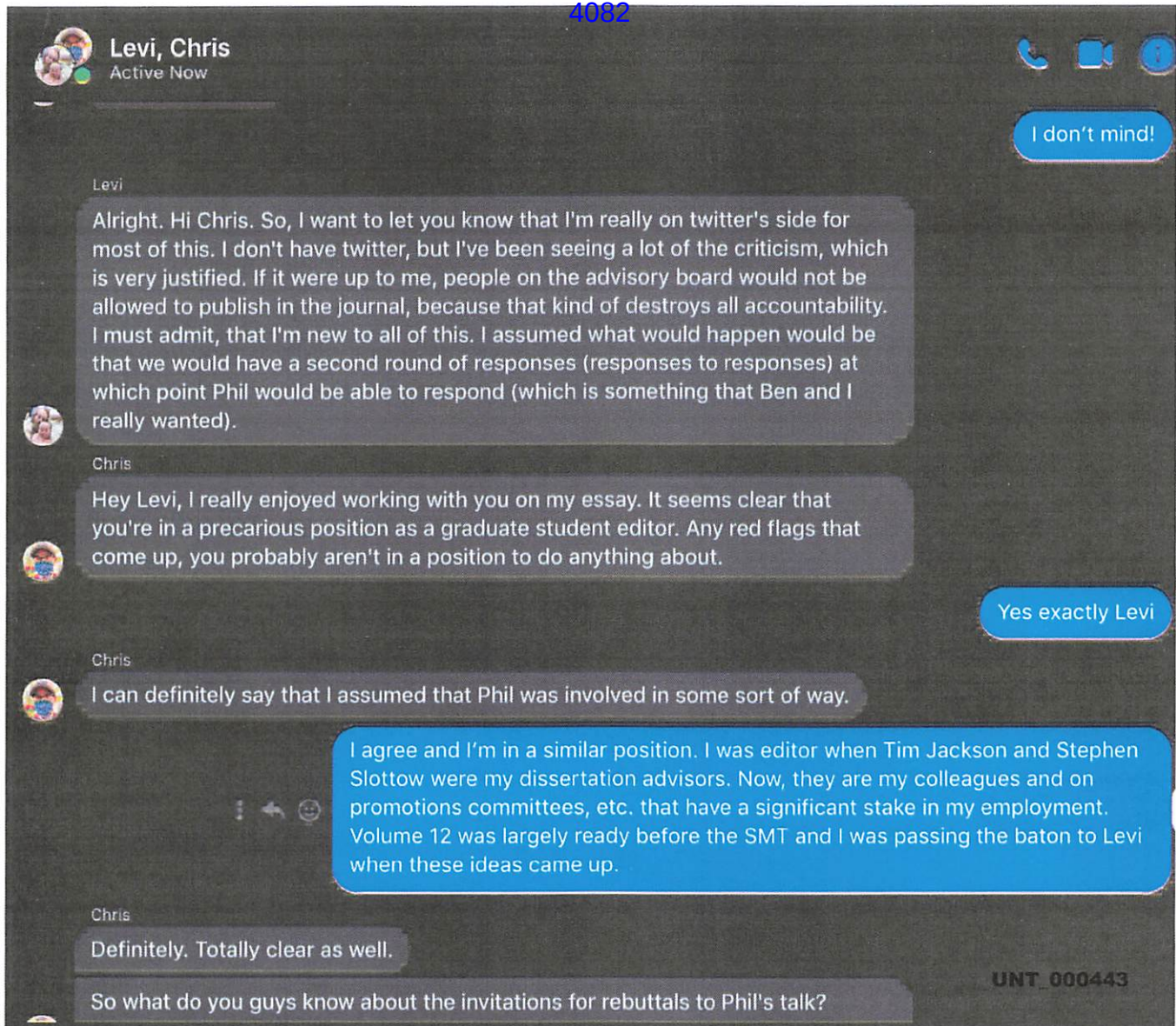
16

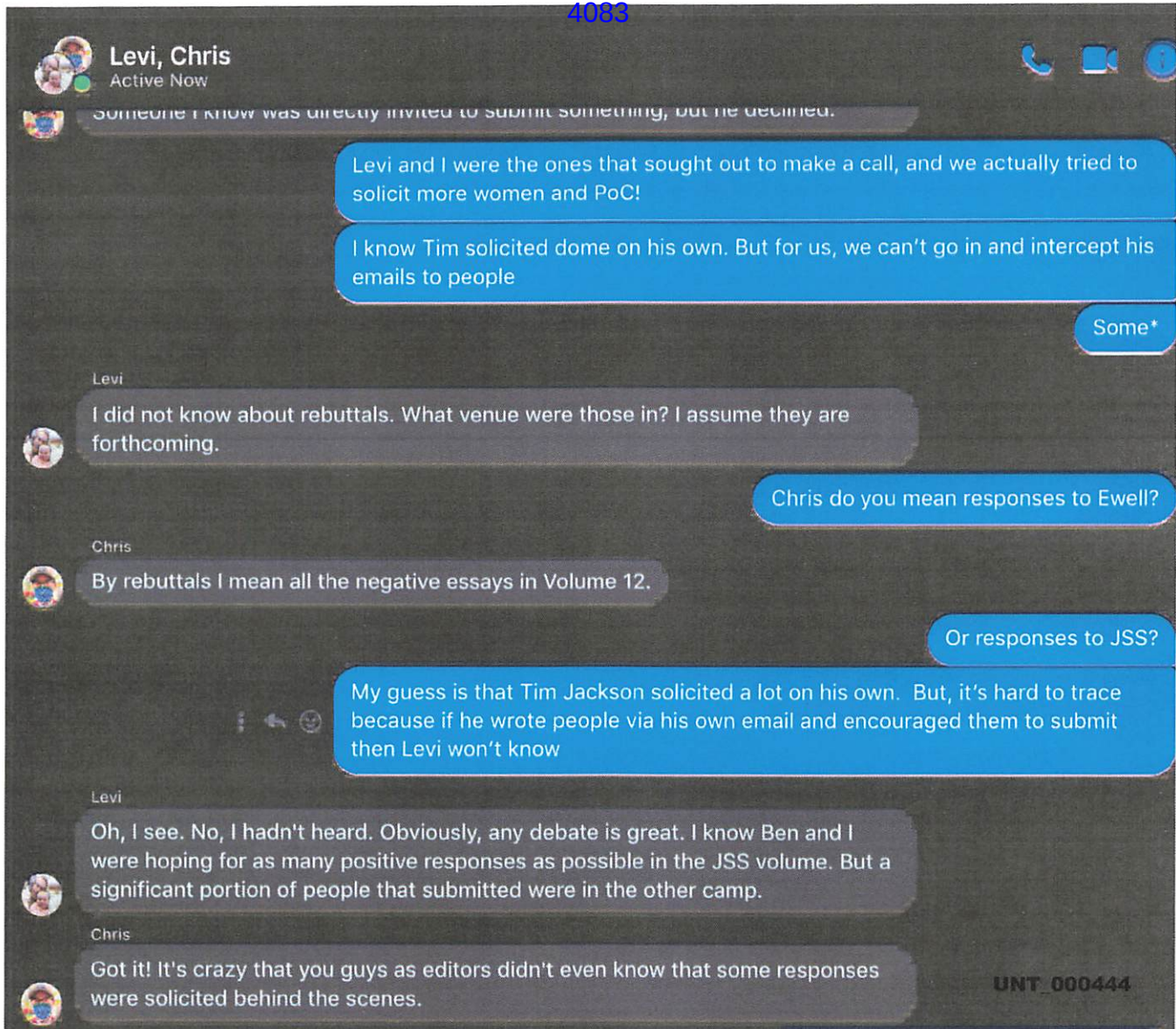
17

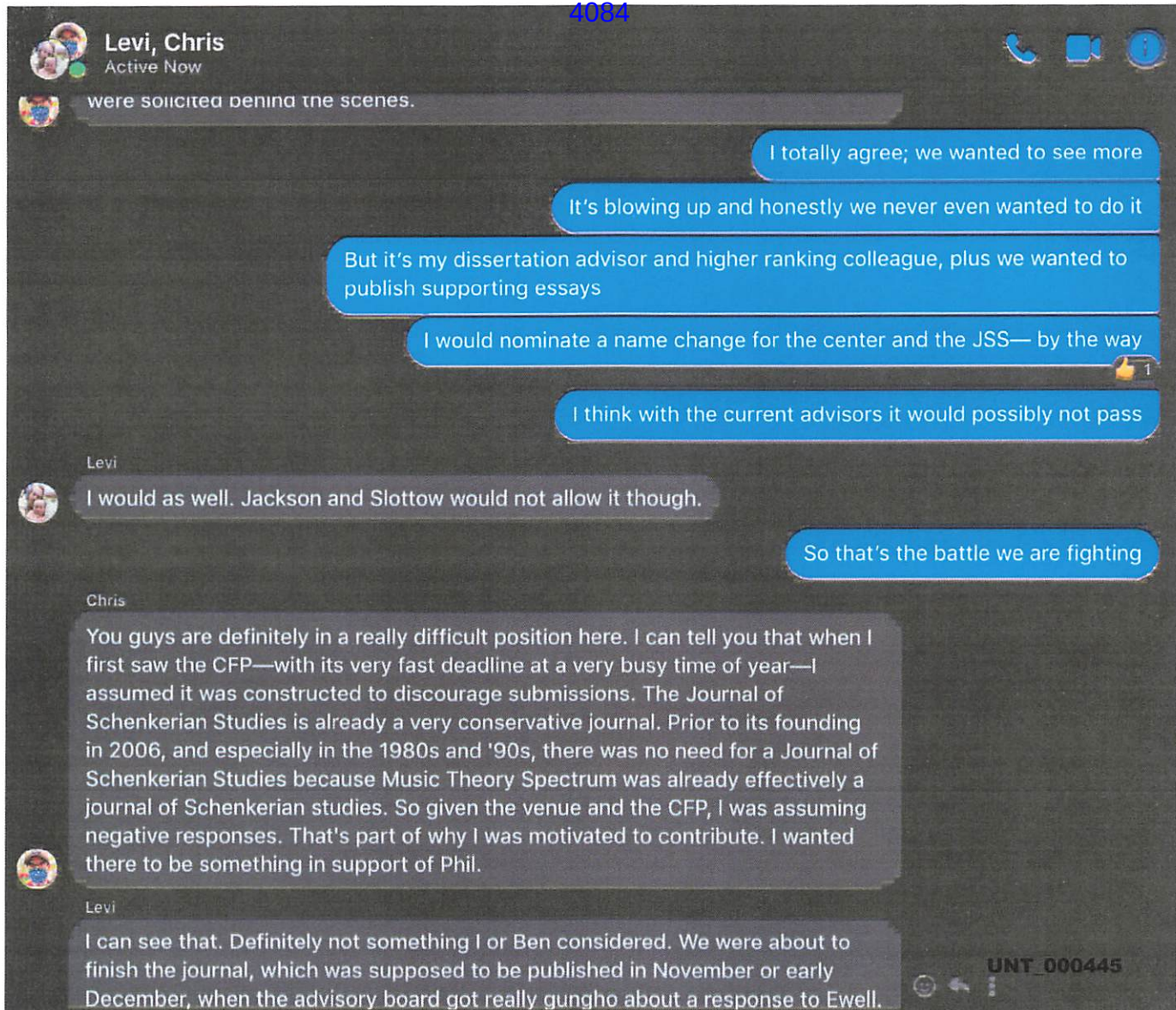
18

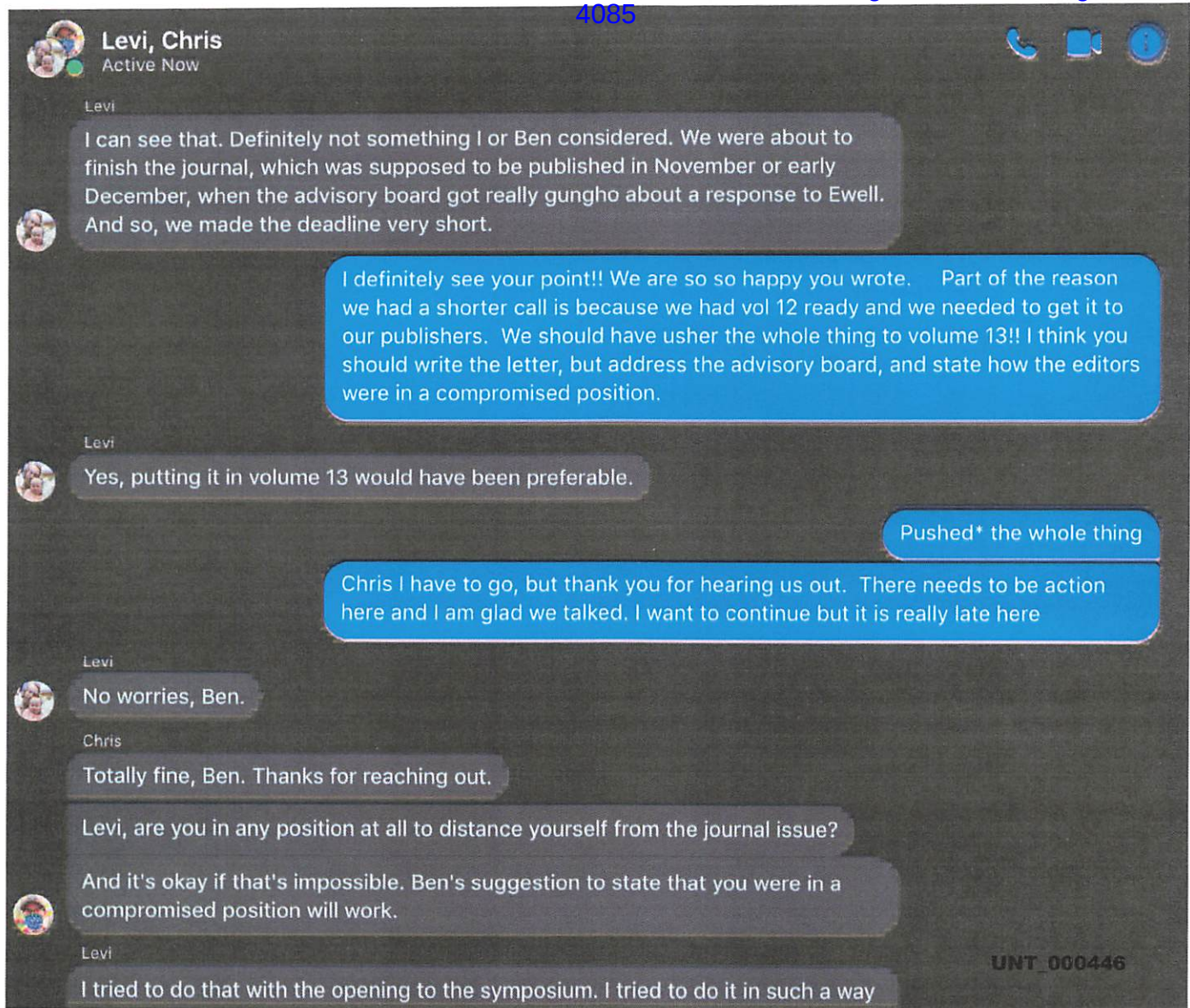
NITA G. CULLEN, Texas CSR #1563
Expiration Date: 08-31-2022
JULIA WHALEY & ASSOCIATES
Firm Registration No. 436
2012 Vista Crest Drive
Carrollton, Texas 75007-1640
214.668.5578

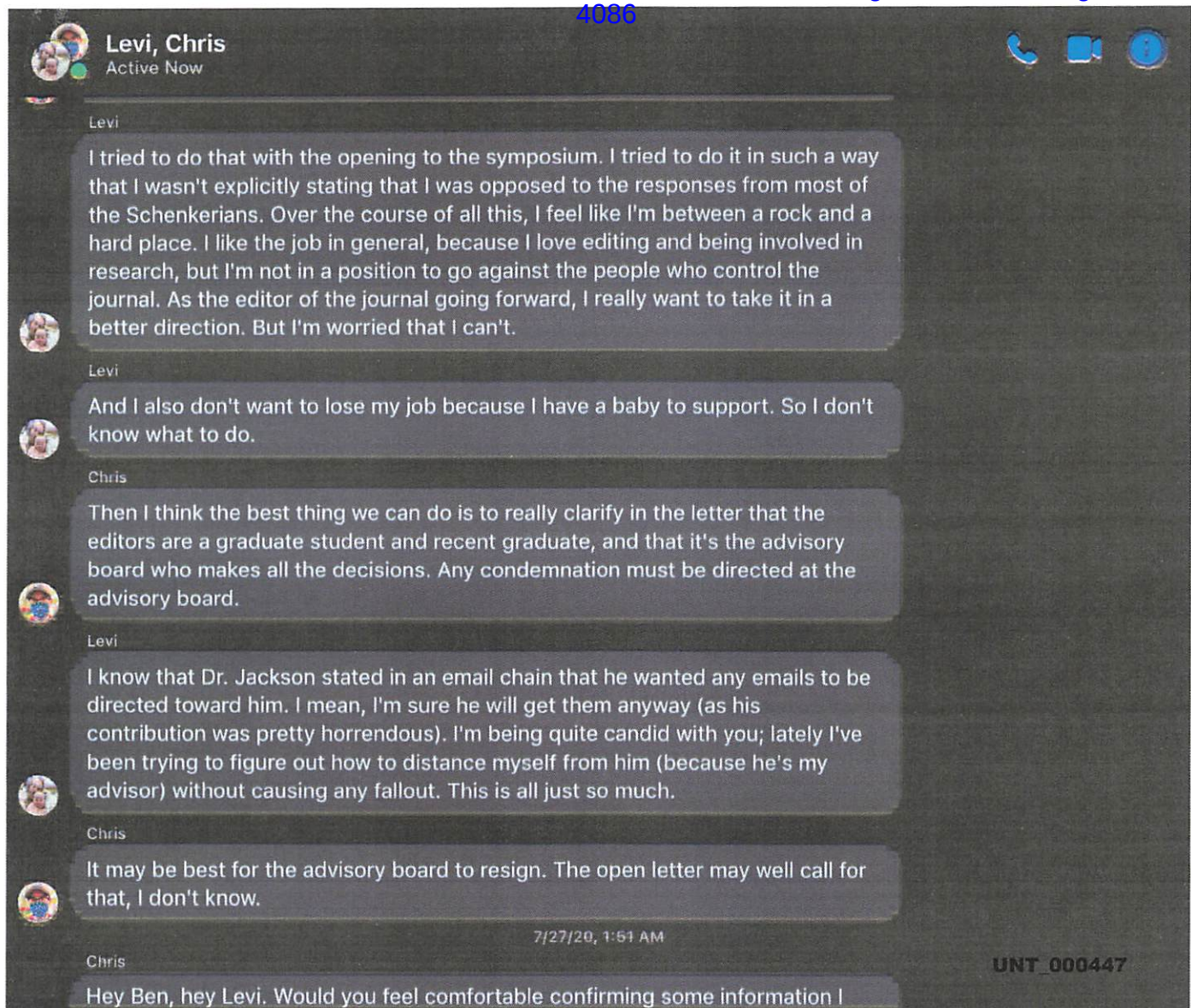


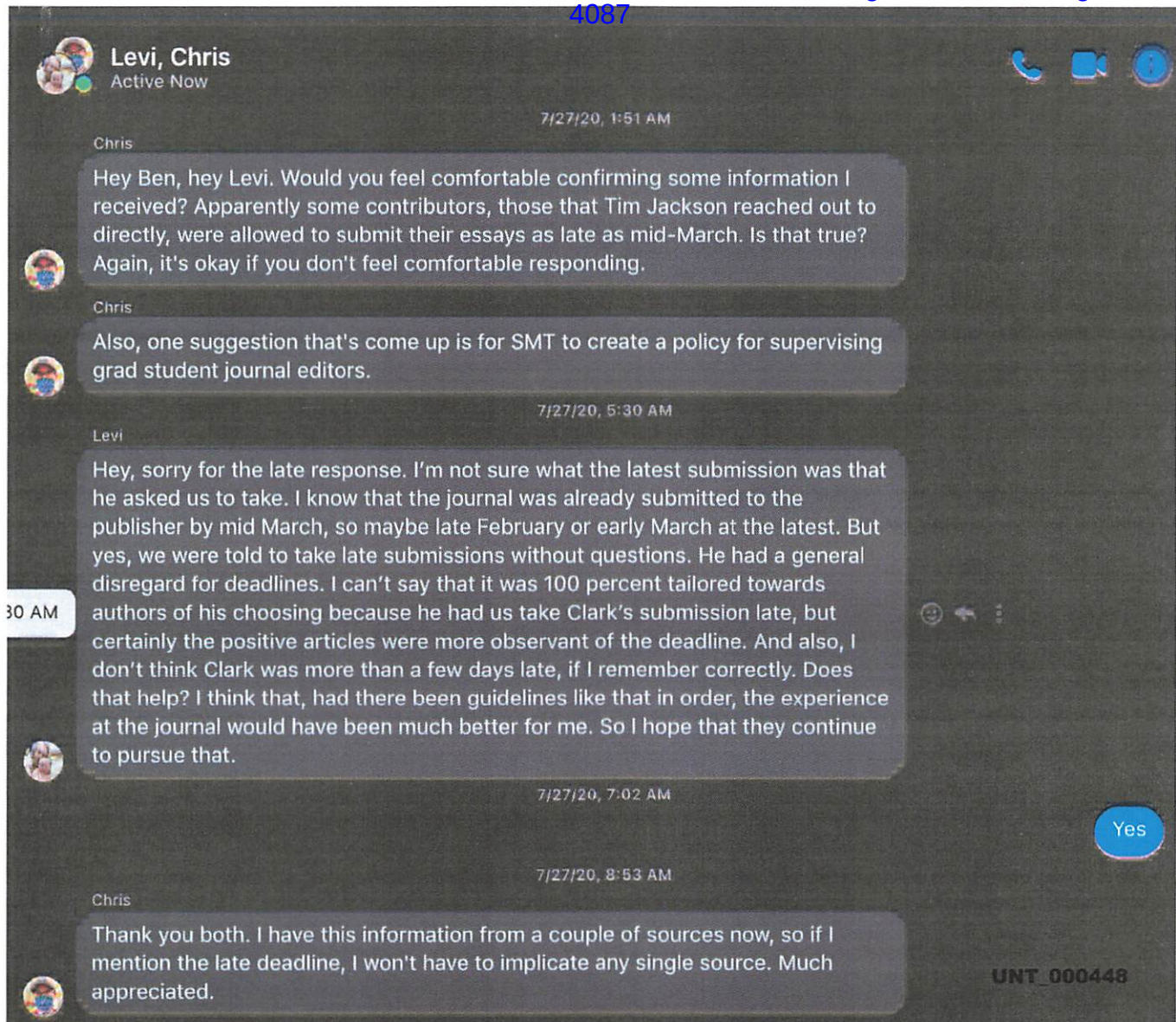












John Toaru Ishiyama, Ph.D. 9/27/24 1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 vs.) CASE NO. 4:21-CV-00033-ALM
7 LAURA WRIGHT, et al.,)
8 Defendants.)
9 *****
10 VIDEOTAPED ZOOM ORAL DEPOSITION OF
11 JOHN TOARU ISHIYAMA, Ph.D.
12 September 27, 2024
13 (Reported Remotely)
14 *****
15 VIDEOTAPED ORAL DEPOSITION OF JOHN TOARU ISHIYAMA,
16 Ph.D., produced as a witness at the instance of the
17 Plaintiff and duly sworn, was taken in the above-styled
18 and -numbered cause on the 27th day of September, 2024,
19 from 9:13 a.m. to 12:35 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported remotely by computerized stenotype
22 machine at the University of North Texas System,
23 801 North Texas Boulevard, Gateway Suite #308, Denton,
24 Texas, pursuant to the Federal Rules of Civil Procedure
25 and the provisions stated on the record or attached
hereto.

John Toaru Ishiyama, Ph.D. 9/27/24 3

I N D E X		PAGE
1	Appearances.....	2
2	Stipulations.....	5
3	JOHN TOARU ISHIYAMA, Ph.D.	
4	Direct Examination by Mr. Allen.....	6
5	Corrections and Changes.....	129
6	Reporter's Certificate.....	131
7	EXHIBITS	
8	NUMBER	DESCRIPTION MARKED
9	Exhibit 1	Re-Notice of Taking Deposition..... 7
10	Exhibit 2	Email Chain Ending 8-3-20, Cowley to Ishiyama, Request to Serve on Ad Hoc Review Panel (UNT 002453 - 002454)..... 20
11	Exhibit 3	Ad Hoc Review Panel Report (Exhibit D) (JACKSON000208 - 000233)..... 23
12	Exhibit 4	COPE Guidelines: A Short Guide to Ethical Editing for New Editors (UNT 003303 - 003314)..... 34
13	Exhibit 5	Theoria Title Page, List of Articles, Directions to Contributors, Volume 26-2020..... 43
14	Exhibit 6	Emails ending 10-14-20, Ishiyama to Jackson, et al. RE: Talk With UNT Ad Hoc Journal Review Panel (UNT 002634 - 002635)..... 50
15	Exhibit 7	Handwritten Notes, 9-16-20, Ad Hoc Journal Review Committee..... 63
16	Exhibit 8	Potential Questions for Benjamin Brand Chair of the Division of History, Theory & Ethnomusicology..... 68

John Toaru Ishiyama, Ph.D. 9/27/24 2

1 APPEARANCES
2 FOR THE PLAINTIFF:
3 Mr. Michael Thad Allen
4 ALLEN LAW, LLC
5 P.O. Box 404
6 Quaker Hill, CT 06375
7 Telephone: 860.772.4738 - Fax: 860.469.2783
8 E-mail: m.allen@allen-lawfirm.com
9
10 FOR THE DEFENDANTS:
11 Ms. Mary Quimby
12 Assistant Attorney General
13 General Litigation Division
14 P.O. Box 12548, Capital Station
15 Austin, Texas 78711
16 Telephone: 512.463.2120 - Fax: 512.320.0667
17 E-mail: Mary.Quimby@oag.texas.gov
18 - and -
19 Mr. Renaldo Stowers (Appearing Live)
20 University of North Texas System
21 Office of General Counsel
22 801 North Texas Boulevard
23 Denton, Texas 76201
24 Telephone: 940.565.2717 - Fax: 940.369.7026
25 E-mail: Renaldo.Stowers@untssystem.edu
26
27 ALSO PRESENT: Jason Warner, Videographer
28 lvg.dallas@gmail.com
29
30
31
32
33
34
35

John Toaru Ishiyama, Ph.D. 9/27/24 4

1	Exhibit 9	PLoS Medicine Article, What Should Be Done to Tackle Ghostwriting in the Medical Literature..... 71
2	Exhibit 10	Walls Facebook Post (JACKSON 000234 - 000236)..... 81
3	Exhibit 11	Email Chain ending 9-30-20, Walls to Ishiyama (UNT 002533)..... 83
4	Exhibit 12	Jackson Materials for the Committee (UNT 002645 - 002782)..... 99
5	Exhibit 13	Email, 10-2-20, Ishiyama to TitleIX, et al. Reporting on an Incident (UNT 003435)..... 117

1 A. Yes. I don't recall him specifically saying it
2 to us in our testimony, but he did seem to indicate that
3 he had little control over the content.
4 Q. Did -- sorry, go ahead.
5 A. Even as editor.
6 Q. He also said he was -- it was an extremely
7 shameful position to be the editor at the Journal of
8 Schenkerian Studies?
9 MS. QUIMBY: Objection, form.
10 A. He may have. I do not recall. But it's his
11 testimony and it appears here in writing, so...
12 Q. And you received this email, right?
13 A. Yes, although I don't recall specifically
14 word for word what the email said, but...
15 Q. He also went on to give some concrete examples.
16 For instance here, let's just read this, which I'm going
17 to highlight briefly for the purpose of our testimony.
18 "For the first few months, the job seemed fine
19 as I got to work with three articles on various topics.
20 Typesetting and offering clarity related edits."
21 A. Um-hum.
22 Q. However, after Philip Ewell's SMT presentation,
23 Timothy Jackson decided that it was the responsibility of
24 the Journal to, quote, protect Schenkerian analysis.
25 "Although, after serious thought, I

1 essentially agreed with Ewell's talk. It was not up to
2 me what did or did not go into the journal. After seeing
3 some of the responses, I started to become incredibly
4 worried. I gave comments to one author, including
5 that they seemed to devalue other fields of study, that
6 they cherry-picked information to make Schenker appear
7 in a better light, and that they confused cultural
8 appropriation with egalitarianism. Shortly after, I was
9 told by Timothy Jackson (my superior in at least three
10 senses: A tenured faculty member who ran the journal and
11 also served as my academic advisor) that it was not my
12 job to censor people. After this, things continued to
13 go in a direction that I found to be disgusting."
14 Did I read that correctly?
15 A. Yes, you did.
16 Q. Did that implicate the processes by which the
17 journal was published?
18 A. Well, some of it did. Not -- much of
19 it had to do with the content. Again, which I have to
20 reiterate, we ignored the content of the articles and
21 what was being said. But the power differential between
22 Levi Walls who's officially the editor of the journal --
23 Q. Sure.
24 A. -- and the actual process by which decisions
25 were made, that is -- that is something that we did

1 consider.
2 Q. Okay. And did you include that in the Ad Hoc
3 Panel Report?
4 A. Yes, the power differential is clearly
5 indicated as a problem with the journal. It has been a
6 problem for some time.
7 Q. And it caused him not to be able to assert his
8 own editorial views; is that correct?
9 A. That would be true. That's also something that
10 Dr. Graf said as well, the previous editor.
11 Q. And now, I know you didn't, as you say
12 apparently, address the content of the journal. That
13 was a matter of indifference to you, I suppose. But he
14 also says here that he thought he essentially agreed with
15 Philip Ewell's talk.
16 A. That may be true. I do not know what Philip
17 Ewell's talk was about, nor did -- not did most all of
18 our committee -- I think our committee members didn't
19 know either.
20 Q. I'm not imputing -- I'm not imputing to your
21 knowledge of -- in fact, you've testified that the
22 knowledge of the actual controversy was a matter of
23 indifference to the panel, right?
24 A. Yes, absolutely.
25 Q. I think you -- so you've already stated that, I

1 think, more than once. So I understand that's your
2 testimony.
3 A. Um-hum.
4 Q. But here, this witness, a very key witness, can
5 we agree, the student editor of the journal?
6 A. I would say a witness, not a key witness.
7 We had multiple bits of evidence, multiple pieces of
8 evidence that we considered.
9 Q. Oh, I don't deny that. But he's --
10 A. I would not say he's the key witness.
11 Q. He was an important witness. Would you
12 disagree?
13 A. I would say he is a witness.
14 Q. Just a witness among others, right?
15 A. Among others, yes.
16 Q. That's your testimony today?
17 A. Yes.
18 Q. And he's telling you, as a member of the ad hoc
19 panel, that he essentially agreed with Philip Ewell's
20 talk, and he relates how this complicated his work as
21 the editor of the journal, right?
22 MS. QUIMBY: Objection, form.
23 A. I cannot infer that was his meeting, but that
24 was irrelevant to us.
25 Q. It's certainly part of an editor's task to

1 Q. I see.
 2 A. Not on content.
 3 Q. And I've always been puzzled by this section,
 4 Professor Ishiyama, because is it ever the job of an
 5 editor of a journal to censor people?
 6 MS. QUIMBY: Objection, form.
 7 A. Again, it could depend on what you mean by
 8 censor.
 9 Q. Well, you put it in your report, so that's
 10 why I'm asking you.
 11 A. Well, no. This is a quote. It's in the
 12 report, but it's a quote from what Dr. Jackson was
 13 reported to say.
 14 Q. Sure.
 15 A. I don't think we need -- I would ask perhaps
 16 the plaintiff to define that.
 17 Q. Well, they had a chance to depose Professor
 18 Jackson. But again, we're talking about the Ad Hoc Panel
 19 Report. And I'm asking --
 20 A. Okay. This is a quote. Again, this is a
 21 quote.
 22 Q. Oh, I understand. It's a quote that you placed
 23 in the Ad Hoc Panel Report, right?
 24 A. As dutifully reflecting what the testimony
 25 said.

1 Q. Of Levi Walls.
 2 A. Of Levi Walls, yes.
 3 Q. And now, I want to ask a follow-up question.
 4 In your experience and expertise as an
 5 academic editor of journals, can you identify a context
 6 in which it's appropriate for an editor to censor people?
 7 MS. QUIMBY: Objection, form.
 8 A. I don't think -- it depends on what you mean by
 9 censor. If you mean the job is to edit and marshal the
 10 peer-review process, then yes, that is the responsibility
 11 of the editor. But censorship is not something we
 12 consider.
 13 Q. Is it -- is it appropriate for an academic
 14 editor to censor for viewpoints?
 15 A. I'm not going to venture an opinion. I would,
 16 myself, not do that. I don't think censorship is part of
 17 the discussion. Rather, it's the editor's job to make
 18 sure the peer-review process had integrity.
 19 Q. Okay.
 20 A. That it is peer reviewed.
 21 Q. And not to short-circuit the peer-review
 22 process by telling an author that they may or may not
 23 express a certain view?
 24 A. Well, I mean, it depends. If this is --
 25 if the argument is that these pieces were edited --

1 editorial review, then the editor does have the
 2 responsibility to review a piece. But I don't understand
 3 the status of these articles, if they were peer reviewed
 4 or if they were editor reviewed. It seems confusing.
 5 Q. I understand. Sure, I understand. Although
 6 you were given an extensive packet of e-mails that were,
 7 more or less, comprehensive, detailing the communications
 8 between the editorial staff that led to the publication
 9 of these articles, right?
 10 A. Yes.
 11 Q. I'm going to represent to you, because you've
 12 said the content of the publication didn't matter to you
 13 supposedly.
 14 A. It did not.
 15 Q. There was a paper delivered by this public
 16 intellectual music theory professor from New York named
 17 Philip Ewell. He gave a plenary presentation at the
 18 Society for Music Theory that was very well received, but
 19 nonetheless, controversial. Then the call for papers
 20 went out for the Journal of Schenkerian Studies for
 21 soliciting responses to this article -- or excuse me, to
 22 this presentation at this Society for Music Theory. The
 23 papers that were published in Volume 12 in the Symposium
 24 were roughly split between people who were pro-Ewell and
 25 people who were anti-Ewell.

1 Do you have any information to suggest that
 2 my summary to you is wrong in any way?
 3 A. I have no idea what the content of the journal
 4 was.
 5 Q. Okay, good.
 6 A. I don't even know if some were pro. I have not
 7 read a single piece. I'm not even sure what Philip Ewell
 8 said, as I've said before.
 9 Q. So you didn't read a single one of the
 10 contributions in Volume 12 of the Journal of Schenkerian
 11 Studies?
 12 A. No, no.
 13 MS. QUIMBY: Objection.
 14 Renaldo, please. I think I'm having a -- on
 15 my end, I'm having freezing. Is that mine freezing? I
 16 can see myself kind of jump around on the screen. I just
 17 want to kind sure my objections were heard. I don't know
 18 that I was able to get them in because of the --
 19 MR. ALLEN: I'm seeing you freezing, too,
 20 Mary. So I know what you mean. If you want to -- I
 21 don't know. Was it to form? Now, she's totally frozen.
 22 THE VIDEOGRAPHER: Do you want to go off
 23 the record?
 24 MR. ALLEN: Sure.
 25 THE VIDEOGRAPHER: Off the record at

John Toaru Ishiyama, Ph.D. 9/27/24

128

1 MR. ALLEN: Okay. I'm going to pass the
2 witness, Mary.
3 MS. QUIMBY: I'll reserve my questions
4 for trial.
5 MR. ALLEN: Thank you, Professor
6 Ishiyama.
7 (No deletions.)
8 THE VIDEOGRAPHER: Off the record at
9 12:35.
10 (Proceedings concluded at 12:35 p.m.)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

John Toaru Ishiyama, Ph.D. 9/27/24

129

1 CHANGES AND SIGNATURE
2 WITNESS: JOHN TOARU ISHIYAMA, Ph.D.
3 DATE: SEPTEMBER 27, 2024
4 PAGE/LINE CHANGE REASON
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

John Toaru Ishiyama, Ph.D. 9/27/24

130

1
2
3 I, JOHN TOARU ISHIYAMA, Ph.D., have read the
4 foregoing deposition and hereby affix my signature that
5 same is true and correct, except as noted above.
6
7
8
9 JOHN TOARU ISHIYAMA, Ph.D.
10 THE STATE OF _____
11 COUNTY OF _____
12 Before me, _____, on this day
13 personally appeared JOHN TOARU ISHIYAMA, Ph.D., known to
14 me or proved to me on the oath of _____ (description of
15 identity card or other document) to be the person whose
16 name is subscribed to the foregoing instrument and
17 acknowledged to me that he/she executed the same for the
18 purpose and consideration therein expressed.
19 Given under my hand and seal of office on this
20 _____ day of _____, _____.
21
22 NOTARY PUBLIC IN AND FOR
23 THE STATE OF _____
24 My Commission Expires: _____
25

John Toaru Ishiyama, Ph.D. 9/27/24

131

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5)
6 Plaintiff,)
7)
8 vs.) CASE NO. 4:21-CV-00033-ALM
9)
10 LAURA WRIGHT, et al.,)
11)
12 Defendants.)
13
14 REPORTER'S CERTIFICATION OF
15 ORAL DEPOSITION OF JOHN TOARU ISHIYAMA, Ph.D.
16 September 27, 2024
17
18 I, KIM D. CARRELL, a Certified Shorthand Reporter
19 in and for the State of Texas, hereby certify to the
20 following:
21 That the witness, JOHN TOARU ISHIYAMA, Ph.D., was
22 duly sworn and that the transcript of the oral deposition
23 is a true record of the testimony given by the witness;
24 That the deposition transcript was duly submitted
25 on October 28, 2024, to Ms. Mary Quimby, for examination,
signature, and return to me by November 27, 2024;
That pursuant to the information given to the
deposition officer at the time said testimony was taken,
the following includes all partes of record and the
amount of time used by each party at the time of the

1 deposition;
2 Mr. Michael Thad Allen - 02 HRS: 47 MIN
Attorney for the Plaintiff
3
4 Ms. Mary Quimby - 00 HRS: 00 MIN
Attorney for the Defendants
5 I further certify that I am neither counsel for,
6 related to, nor employed by any of the parties or
7 attorneys in the action in which this proceeding was
8 taken, and further that I am not financially or
9 otherwise interested in the outcome of the action.
10 Certified to by me on this 28th day of October,
11 2024.
12
13

14 Kim D. Carrell, CSR NO. 1184
Date of Expiration: 7-31-26

15 JULIA WHALEY & ASSOCIATES, INC.
16 2012 Vista Crest Drive
Carrollton, Texas 75007-1640
17 214-668-5578/Fax 972-236-6666
Firm Registration No. 436
18 Certification Expires 10-31-26
Notary Comm. Expires 12-1-25
19
20
21
22
23
24
25



Tweet



dr little ferret, phd
@imanimosley



as per always, this conversation is more complicated than it seems. it's been brought to my attention that the editors of JSS are grad students/ junior scholars, etc. please let us remember their precarity when addressing how something like this can come to fruition.

10:49 · 26/07/2020 · [Twitter for iPad](#)

4 Retweets and comments **30** Likes



Megan Lavengood @meganlave... · 5m



Tweet your reply





Tweet



Megan Lavengood @meganlave... · 5m ✓

Replying to @imanimosley

The journal is "run by" grad students but their editorial and advisory boards are mainly tenured senior scholars.



Megan Lavengood @meganlave... · 3m ✓

I haven't been involved in a student run journal myself but to me this signals that the grunt work (soliciting submissions, administration, line edits) is done by grad students but the burden of peer reviewing and such can be squarely put on the shoulders of the boards



Mariusz Kozak @prof_kozak · 8m ✓

Replying to @imanimosley

I was told the same, but these are not junior scholars

mhte.music.unt.edu/editorial-board



Tweet your reply





Tweet



Sam Reenan @sam_reenan · 7m



This brings up a really important question, which is whether these essays even were peer reviewed. If they were, how did the editorial board fail so hard. If they weren't, it's a damn shame that senior scholars would manipulate their power to espouse such views.



Mariusz Kozak @prof_kozak · 6m



The same people who wrote the essays are on the editorial board 🙄



Daniel Shanahan @danielshan... · 12m



Replying to @imanimosley

I would argue that this is another reason that Johnson (a senior scholar at their institution and likely their advisor) choosing to publish those viewpoints there is such an unscholarly abuse of power.



Tweet your reply





Tweet



Replying to [@imanimosley](#)

I would argue that this is another reason that Johnson (a senior scholar at their institution and likely their advisor) choosing to publish those viewpoints there is such an unscholarly abuse of power.



Megan Lavengood @meganlave... · 2m ▾

*Jackson but more importantly, it sure looks that way doesn't it!?



Louise Fristensky @RamblingL... · 12m ▾

Replying to [@imanimosley](#)

(I'm a grad student. But also, one assumes they have an advisory professor or something?)



Megan Lavengood @meganlave... · 5m ▾

Two in fact!



Tweet your reply





Tweet



Robert Komaniecki
@Komaniecki_R



Getting a sense of some of the inner workings of the Journal of Schenkerian studies: A former UNT student told me that when they worked on the journal, several of the board members were dead



Tweet your reply





Peter's post



hole of threads and tweets trying to get the whole picture lol

33 m

Like

Reply



1



Write a reply...

**Ben Graf**

I'm ashamed to be associated with it, I'm really torn up about the whole issue. Levi and I are caught in a crossfire and I'm glad to be done my association with it.

24 m

Like

Reply



3

**Peter Kohanski**

I thought of you guys and was worried you had to get caught up in it. I'm so sorry for the position you must've been in, it doesn't sound fair and must've been really difficult. I know this had to have come from higher ups.

17 m

Like

Reply



Write a reply...



Write a comment...





Thread



Chris Brody @chrisbrodyMT · 15m

People are saying JSS is a "grad student journal." A possibly helpful clarification: "grad student journal" can mean several things. Type 1: run by grad students, peer review done by grad students, intended exclusively for grad students to publish in. (not JSS)



Chris Brody @chrisbrodyMT · 15m

Type 2: Peer review is done by PhD-holders, but otherwise run by grad students who make serious, significant decisions about the editorial direction of the journal (e.g. Intégral, ITR)



Chris Brody @chrisbrodyMT · 15m

Type 3: Editorial gruntwork is done by grad students, one of whom may have the title of editor, but peer review AND basically all other serious decisions are made by a PhD-holding editorial board (and may not even be endorsed by the



Tweet your reply





Thread

made by a FID holding editorial board (and may not even be endorsed by the "editors" who must carry out their directions)



Chris Brody
@chrisbrodyMT



I could be wrong here but my impression is that JSS is closest to type 3. So please keep that in mind when deciding who deserves to "face consequences"—those who are responsible, on paper, for some decisions may have been put in a vulnerable, professionally impossible situation

14:42 · 26/07/2020 · [Twitter Web App](#)



Tweet your reply

